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Study of Development and Growth in Colorado

Report to the

COLORADO

GENERAL ASSEMBLY

**Colorado Legislative Council
Research Publication No. 460
November 1999**

RECOMMENDATIONS FOR 2000

**STUDY OF DEVELOPMENT AND
GROWTH IN COLORADO**

**Report to the
Colorado General Assembly**

**Research Publication No. 460
November 1999**

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November 1999

To Members of the Sixty-second General Assembly:

Submitted herewith is the final report of the Study of Development and Growth in Colorado. The interim committee was created pursuant to Senate Joint Resolution 99-046 to study, review, and evaluate the roles and relationships of state government, local governments, and the citizens of Colorado in planning for and accommodating urban development and growth in the state, as such development and growth impact the uses of land.

At its meeting on November 15, 1999, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2000 session was approved.

Respectfully submitted,

/s/ Senator Ray Powers
Chairman
Legislative Council

RP/GJ/pw

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STUDY OF DEVELOPMENT AND GROWTH IN COLORADO

Members of the Committee

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Senator Mark Hillman
Senator Terry Phillips
Senator Peggy Reeves

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EXECUTIVE SUMMARY

Committee Charge

House Joint Resolution 99-046 created an eleven-member legislative study committee to study, review and evaluate planning for and accommodation of urban development and growth in Colorado.

Committee Activities

The legislative study committee met six times during the 1999 interim and heard testimony which included the following subject areas:

- Colorado population growth rates and economic trends;
- local government cooperation in planning for growth;
- local control of land use;
- local government comprehensive plans;
- local government competition for sales tax revenues and regional sales tax revenue sharing;
- "Smart Growth" planning and urban growth boundaries;
- state growth management legislation;
- loss of open space;
- environmental protection and loss of wildlife habitat;
- growth impacts on school district capital costs;
- protection of farm land and conservation easements; and
- the impact of federal estate taxes on agriculture.

Committee Recommendations

As a result of committee discussion and deliberation, the committee recommends nine bills and one resolution for consideration at the 2000 legislative session.

Bill A — Rural Legacy Grants Program. Bill A proposes a referendum to the voters that would create the State Rural Legacy Trust Fund. The trust fund would be used to supplement existing state, county and local land conservation programs as a means of preserving Colorado's natural resources from the effects of growth and development.

Bill B — Land Use Factors for Government Bodies. Bill B expresses the will of the General Assembly that county and municipal governments coordinate their planning and zoning regulations. The bill encourages county and municipal regulation to provide consistent treatment of and timely reviews and decisions on land use requests. It encourages

development within existing municipal boundaries, with special consideration given to projects that create low to moderate income housing.

Bill C — County and Municipal Development Rights. This bill authorizes counties and municipalities to acquire development rights to property within their boundaries in order to preserve open space or agricultural land for public use and enjoyment. Municipalities would be authorized to acquire development rights for land that is outside of their municipal boundaries if all counties in which the land is located agree to the acquisition.

Bill D — Tax Credit for Estate Tax on Agricultural Assets. Bill D would give an income tax credit for agricultural assets. The credit could be claimed by the resident estate or by a beneficiary. A beneficiary claim may not exceed a credit of 4.75 percent of the total taxable income passed through the estate to the beneficiary.

Bill E — Master Plan Criteria. Bill E updates the current statute regarding local governmental master plans. The bill establishes criteria that may be included in a master plan and requires local planning commissions to hold a public hearing prior to adopting a master plan.

Bill F — Local Government Master Plans. This bill requires the Division of Planning in the Department of Local Affairs to provide computer access to county, regional, and municipal master plans. The bill also requires county, regional and municipal planning commissions to use uniform terminology in their master plans and to make the master plans available to the Division of Planning.

Bill G — Resolving Local Land Use Disputes. Bill G requires the Division of Planning in the Department of Local Affairs to maintain a list of individuals and organizations that are available to assist in resolving land use disputes between local governments. The bill provides a method for mediation and arbitration of land use disputes. The Division is given the authority to notify state agencies that a local government has failed to enter into arbitration or mediation. This notification may result in the loss of services, funding or grants to a local government.

Bill H — Tax Incentives for Telecommuting. Bill H allows Colorado employers an income tax credit for allowing employees to telecommute. The amount of the credit is proportional to the miles of commuting avoided by telecommuting employees. The credits may be carried forward for up to three years, and apply to tax years beginning January 1, 2000.

Bill I — Income Tax Credit for Open Space. This bill creates an income tax credit for taxpayers who preserve their land as open space pursuant to an open space management plan. In order to claim the credit, a taxpayer must submit a certificate to the Colorado Cooperative Extension Service certifying compliance with an open space management plan.

Resolution A — Reduce Vacant Land Valuation for Assessment. Resolution A submits to Colorado voters a proposed constitutional amendment which would require vacant land to be assessed for property tax purposes at the same percentage of actual value as residential land. This requirement applies to property tax years beginning on January 1, 2001.

STATUTORY AUTHORITY AND RESPONSIBILITIES

House Joint Resolution 99-046 created an eleven-member legislative study committee to study, review and evaluate planning for and accommodation of urban development and growth in Colorado. The resolution stated that better coordination of development and growth throughout the state may enhance the health, welfare, safety, and quality of life of Colorado residents. The resolution further pointed out that such coordination will result in: more efficient use of taxpayer money for the construction and maintenance of utilities, schools, and public facilities, improved efficiencies in supplying public services, reduction in sprawl, preservation of agricultural lands in production, and environmental protection.

The legislative study committee was directed to examine the roles and relationships between state government, local governments and Colorado citizens in planning for development and growth in the state, and to develop recommendations for legislative changes necessary to improve state and local governments' ability to plan for growth.

COMMITTEE ACTIVITIES

The committee met six times during the 1999 interim and heard testimony from individuals representing a number of organizations including: the American Planning Association, the Colorado Association of Home Builders, the Colorado Association of Realtors, the Colorado Association of School Boards, the Land Use Coalition, Colorado Counties Incorporated, the Colorado Municipal League, the Denver Regional Council of Governments, the Demography Section of the Colorado Department of Local Affairs, the Chief Economist of the Colorado Legislative Council, Colorado Forum, the Colorado Public Interest Research Group, the Colorado Cattleman's Association, the Colorado Farm Bureau, Clean Water Action, and Colorado Trout Unlimited.

The committee invited commentary from these diverse stakeholders on two basic questions. The first question was whether they perceive problems related to population growth and development in Colorado. The second question was what remedies the organizations propose to address problems associated with growth in the state.

Testimony provided to the committee included the following subject areas:

- Colorado population growth rates and economic trends;
- local government cooperation in planning for growth;
- local control of land use;
- local government comprehensive plans;
- local government competition for sales tax revenues and regional sales tax revenue sharing;
- "Smart Growth" planning and urban growth boundaries;
- state growth management legislation;
- loss of open space;
- environmental protection and loss of wildlife habitat;
- growth impacts on school district capital costs;
- protection of farm land and conservation easements; and
- the impact of federal estate taxes on agriculture.

A number of the major topics addressed by the interim study committee are discussed on subsequent pages.

Colorado Population and Economic Projections

The committee received testimony regarding growth projections and trends in Colorado. Colorado's population is growing at approximately 2.2 percent a year, about twice the national average. It is estimated that in the year 2000 Colorado's population will reach 4.2 million. Much of Colorado's growth can be attributed to immigration into the state, particularly due to the emergence of high-tech industries on the Front Range. With the competitive advantage that Colorado offers high-tech industries, growth in that sector

is expected to continue to outpace the national average. Elsewhere in the state, construction of second homes is resulting in an increased demand for workers and consequently increased populations in and around Colorado's resort areas. In addition, Colorado is becoming a popular state for retirees. Large numbers of retirees from Texas and California are expected to relocate to Colorado. Colorado also has a larger percentage of baby boomers than do most states.

Colorado's typical economic cycle of boom and bust is changing. The concentration of high-tech industries in Colorado is transforming Colorado into more of an international economy and making it less susceptible to the boom and bust cycles that typically accompany economies dependent upon natural resources and agriculture.

Colorado's economy is expected to continue to grow, but at a slower rate than was experienced in the early and mid 1990s. In the early 1990s, it was relatively easy for companies to recruit workers in Colorado. The cost of living was low and the quality of living was high. In the late 1990s however, the increased cost of non-residential office space, non-residential construction, and residential housing has contributed to a slowing of growth. The high cost of leasing or building office space is discouraging or preventing some industries from re-locating to Colorado. Finally, the increased cost of living that has emerged in Colorado has made it more difficult for companies to recruit workers to move to Colorado.

State Government Approaches to Growth Management

The committee heard testimony regarding various programs in other states designed to address problems resulting from growth and development. Six states were highlighted as having model growth management and planning statutes. The six states are: Hawaii, Oregon, Washington, Florida, Maryland, and Tennessee. Although each state has used a slightly different approach with diverse elements to their plans, each state has experienced success. Oregon is considered by many to have the most advanced state-administered land-use planning system. Oregon's plan incorporates statewide planning goals, local comprehensive plans, rezoning for high-density residential land use, and urban growth boundaries. Comprehensive plans are reviewed by the Land Conservation and Development Commission which approves local government plans once it has been determined that the plan satisfies the state's requirements and goals. The Commission has the power to suspend local authority to issue building permits or approve land subdivisions.

Maryland's statewide land-use planning system utilizes local comprehensive plans which must contain certain prescribed elements. The plans must also incorporate a series of state "vision" statements. Maryland also incorporates "priority funding areas" into its planning as a means of directing new development into areas which meet certain state guidelines. State funding is precluded for growth-related projects that are not located in the priority funding areas.

Similar to Maryland, Washington requires the use of comprehensive plans in its statewide land-use plan. The comprehensive plans must include elements addressing land use, housing, capital facilities, transportation, and utilities. The plans must also designate urban growth areas. There is no state agency or board that approves the comprehensive plans, but county and municipal plans must be consistent with one another. There are three regional growth management hearing boards with the authority to hear petitions alleging non-compliance with the growth management laws. Tennessee, Hawaii, and Florida all have land-use plans that incorporate elements of the land-use mechanisms used by Oregon, Maryland and Washington.

Growth Problems and Proposed Remedies

The committee heard testimony from a total of 41 individuals representing home builders, realtors, local governments, K-12 schools, property rights advocates, agricultural interests, and environmentalists. These persons identified the following problems related to rapid growth and development in Colorado:

- unsightly urban sprawl;
- long and congested commutes;
- high costs of living;
- high housing costs;
- high costs of providing services to accommodate growth for local governments;
- reliance of municipalities on sales taxes and competition for sales tax revenues;
- unintended tax incentives to develop vacant land;
- high impact fees;
- insufficient and decaying infrastructure;
- high capital costs in the K-12 system to accommodate growth;
- wildlife habitat loss;
- degradation of air quality;
- loss of agricultural lands; and
- insufficient growth and economic decline in rural areas.

The committee heard numerous suggested remedies for these problems related to growth and development. The most comprehensive list of remedies was proposed by the group known as Colorado Forum. Colorado Forum is a state-wide organization of business leaders convened to seek sound public policy in Colorado. In 1999, Colorado Forum held a series of meetings with representatives of diverse Colorado organizations interested in

growth management. This group included: home builders, municipalities, planners, COPIRG, DRCOG, the Denver Chamber of Commerce, and representatives of various foundations. The objective of the group was to work toward consensus on strategies to manage Colorado's growth and preserve the state's environment. The participants believe that coordinated growth management is urgent in the state, and essential to sustaining the Colorado economy and quality of life. The group's deliberations resulted in a set of positions addressing growth in seven subject areas. These positions are described below.

Colorado cities, towns and counties should be required to develop comprehensive plans. Colorado Forum participants believe that some Colorado communities will need financial support from the state to develop comprehensive plans. They suggested that 20-year plans be adopted through a public process. They also advocated mandatory compliance with comprehensive plans and that the plans be subject to revision annually. Common elements that should be included in comprehensive plans are: transportation, housing, open space, recreation, infrastructure, water, commerce and industry, and public facilities, including education. Plan elements should strive for a balance between new jobs and available housing. Colorado Forum participants believe that building moratoria are appropriate, however, existing property rights should not be harmed. Efficient land use reviews should be encouraged and a presumption of the right to build should exist where building proposals are consistent with comprehensive plans and within designated urban service areas.

Regional cooperation should be encouraged. Regional cooperation among local governments is considered critical to effective growth management by Colorado Forum participants.

Alternative dispute resolution should be established. An administrative appeals process should be created at the state or regional level. The purpose of the process would be to expedite appeals by landowners and citizens regarding local government decisions as well as appeals by local governments in response to comprehensive plans and decisions of neighboring local governments.

Urban service areas should be established. Urban service areas (i.e., designated areas in which municipal services may be provided) should be established by local governments based on their comprehensive plans, community objectives, projected growth, and the ability of the local government to pay for the required infrastructure. Urban service areas should have a minimum density and should be clearly defined. Policies to limit development outside of the urban service areas should be implemented.

Conservation measures should be taken. The transfer of development rights and the purchase of development rights are essential ingredients of effective growth management.

Uses and densities for ex-urban and rural areas. Densities and uses of areas outside of urban service area boundaries should be examined. Concern with development of 35-acre lots and consequent loss of open space and agricultural land was expressed.

Clustering requirements, transferable development rights, purchased development rights, limits on minimum lot sizes, and conservation acquisitions should be considered to discourage unwanted sprawl.

Authority to impose impact fees should be strengthened. Statutory authority for the imposition of impact fees by local governments should be strengthened.

In addition to Colorado Forum's recommendations, other testimony provided to the committee generated the following proposed remedies to mitigate growth and development problems:

- local control of development and growth should be maintained;
- redevelopment of urban areas, mixed-use developments, building around mass transit corridors, new development adjacent to existing urban areas, and compact development should be encouraged;
- light rail should be constructed;
- investments should be made in transportation infrastructure;
- the state should coordinate infrastructure development;
- planning laws and annexation laws should be revised and updated;
- moratoria should be placed on new home permits;
- the state should provide incentives to influence growth patterns;
- local government regional sales tax revenue sharing should be implemented;
- predictable, clear development processes should be established;
- a balance in the provision of jobs and housing in communities should be sought;
- open space acquisition should be encouraged;
- farmland protection programs should be established; and
- tax incentives for development in rural areas should be provided.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Rural Legacy Grants Program

Bill A proposes a referendum to the voters that would create the State Rural Legacy Trust Fund. The trust fund would be used to supplement existing state, county and local land conservation programs as a means of preserving Colorado's natural resources from the effects of growth and development. The program would be administered through the Department of Local Affairs by a seven-member Rural Legacy Board. The board would consist of the executive directors of the Departments of Agriculture, Natural Resources and Local Affairs, along with four members appointed by the Governor. Board responsibilities include: recommending rules to administer the rural legacy grants program; designating rural legacy areas; adopting and publicizing criteria regarding the designation of rural legacy areas and grant awards; and receiving and expending gifts, grants and bequests upon the Governor's approval. The Trust would be funded from the state surplus in years in which a surplus exists. During such years, the lesser of the actual surplus or \$17 million would be placed in the Rural Legacy Trust Fund.

Bill A is assessed as having a conditional fiscal impact. If the referred bill passes, the Department of Local Affairs would require a State Rural Legacy Trust Fund appropriation of 1.5 FTE and \$17,000 for FY 2000-01.

Bill B — Land Use Factors for Government Bodies

Bill B expresses the will of the General Assembly that county and municipal governments coordinate their planning and zoning regulations in an effort to eliminate conflicts and to coordinate growth plans. The bill encourages county and municipal regulation to provide consistent treatment and timely reviews and decisions on land use requests. It encourages development within existing municipal boundaries, with special consideration given to projects that create low to moderate income housing. Bill B encourages local governments to seek a balance between jobs created and housing permits issued in their planning processes. Finally, the bill calls for county and local officials to conduct regular reviews of land use statutes in order to eliminate outdated and unnecessary provisions.

Bill B is assessed as having a conditional fiscal impact. The Department of Local Affairs has not estimated the amount of potential cost increases. Local governments which elect to coordinate planning regulations with adjacent communities may incur additional administrative costs.

Bill C — County and Municipal Development Rights

Pursuant to Bill C, counties and municipalities are authorized to acquire development rights to property within their boundaries in order to preserve open space or agricultural land for public use and enjoyment. Municipalities would be authorized to acquire development rights for land that is outside of their municipal boundaries if all counties in which the land is located agree to the acquisition. Development rights may only be acquired if the owner of the land voluntarily sells or transfers the land to the county or municipality. Development rights are perpetual unless the voters of the county or municipality approve the termination of the development rights.

Bill C is assessed as having a conditional local fiscal impact. The impact depends on the extent of local government expenditures to acquire development rights.

Bill D — Tax Credit for Estate Tax on Agricultural Assets

Bill D would give an income tax credit for the total amount of the state estate tax levied on the share of the gross estate that is attributable to agricultural assets. The credit would be available for income tax years commencing on or after January 1, 2002. The credit could be claimed by the resident estate or by a beneficiary. A beneficiary claim may not exceed a credit of 4.75 percent of the total taxable income passed through the estate to the beneficiary. If the amount of the credit exceeds the amount of income tax due, the amount of the credit not used can be carried forward as a tax credit against a subsequent year's income tax returns.

No new spending authority or appropriations would be required to implement Bill D in fiscal year 2000-01. The bill would result in a general fund revenue reduction in FY 2001-02 and later years.

Bill E — Master Plan Criteria

Bill E updates the current statute regarding local governmental master plans. The bill establishes criteria that may be included in a master plan and requires local planning commissions to hold a public hearing prior to adopting a master plan. Local master plans may include: the location of existing and proposed transportation systems; the location of public schools, parks, airports, trails, and other protected areas. Also included may be: the location and extent of public utilities; the location and extent of adequate water supplies; methods for assuring alternate energy sources such as solar or wind; the location and character of community centers, residential neighborhoods and sufficient land for future housing developments; the location of agricultural areas; and the location of steep slopes, geological hazards, endangered species, and wetlands.

Bill E is assessed as having a conditional fiscal impact.

Bill F — Local Government Master Plans

This bill requires the Division of Planning in the Department of Local Affairs to provide computer access to county, regional, and municipal master plans. The Director of the Division is authorized to charge fees to offset the cost of providing access. A fund is established into which the fees will be deposited. The bill also requires county, regional and municipal planning commissions to use uniform terminology in their master plans and to make the master plans available to the Division of Planning.

Bill F is assessed as having a state and local fiscal impact. The bill would require that the Department of Local Affairs receive cash fund spending authority of \$10,000. These fees would offset the cost of providing electronic access.

Bill G — Resolving Local Land Use Disputes

Bill G requires the Division of Planning in the Department of Local Affairs to maintain a list of individuals and organizations that are available to assist in resolving land use disputes between local governments. The bill provides a method for mediation and arbitration of land use disputes, establishment of deadlines and procedures, and selection of mediators and arbitrators. If a local government refuses to engage in mediation or arbitration when requested to do so by another local government, the requesting local government may file a notice of such refusal with the Division. The Division is given the authority to notify state agencies that the local government has failed to enter into arbitration or mediation. This notification may result in the loss of services, funding or grants to the refusing local government.

Bill G would require a General Fund appropriation of \$19,671 and 0.4 FTE for FY 2000-01.

Bill H — Tax Incentives for Telecommuting

Bill H allows Colorado employers an income tax credit for allowing employees to telecommute (using telecommunications equipment to perform their work at home) instead of traveling to work at the employer's office. The amount of the credit is proportional to the miles of commuting avoided by telecommuting employees. Employers who claim the credit must file a statement of the amount of the credit claimed, miles saved, and supporting documentation. The credit is in addition to any enterprise zone credits claimed by the employer. The credits may be carried forward for up to three years, and apply to tax years beginning January 1, 2000.

Bill H would require no new spending authority or appropriations for FY 2000-01. The Department of Revenue would be required to obtain additional information from certain

taxpayers, however, since the number of returns claiming the credit is expected to be small, the costs will be absorbed within existing department resources.

Bill I — Income Tax Credit for Open Space

This bill creates an income tax credit for taxpayers who preserve their land as open space pursuant to an open space management plan. In order to claim the credit, a taxpayer must submit a certificate to the Colorado Cooperative Extension Service (CCES) that certifies compliance with an open space management plan. The Service is required to inspect the parcels of land every two years, and to certify that they are being preserved as open space. The Service is authorized to charge a fee to property owners to cover the costs of inspection. Bill I allows for a maximum aggregate credit that may be claimed by a taxpayer (amount not specified in the proposed bill.) Unused portions of a taxpayer's credit may be carried forward to subsequent tax years. The credit may not be claimed if a conservation easement credit has already been claimed for the same piece of property.

Bill I is assessed as having a fiscal impact. Costs to the Department of Revenue will be absorbed within existing resources. The CCES is authorized to charge fees to cover the costs of inspections. Since the number of parcels subject to inspection is unknown, and the time requirements for field visits has not been identified, the annual cost to CCES has not been estimated.

Resolution A — Reduce Vacant Land Valuation for Assessment

Resolution A submits to Colorado voters a proposed constitutional amendment which would require vacant land to be assessed for property tax purposes at the same percentage of actual value as residential land. This requirement applies to property tax years beginning on January 1, 2001. For the purpose of determining the biennial adjustment to the residential assessment rate, the bill requires the aggregate statewide valuation for assessment that is attributable to vacant land to be calculated using the current ratio of valuation for assessment for vacant land of 29 percent.

Resolution A, if approved by the voters, would reduce statewide property tax collections by \$177 million beginning in FY 2001-02.

RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council Staff during the course of the study. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver. For a limited period of time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

www.state.co.us/gov_dir/leg_dir/lcsstaff/1999/99interim.

Meeting Summaries	Topics Discussed
August 9, 1999	Comments on growth in Colorado; comments on national trends, problems, and solutions regarding state growth and development; planning legislation; comments on the Growth Management Alliance of Colorado.
August 30, 1999	Housing industry perspectives on growth in Colorado; K-12 schools and property rights advocates perspectives.
September 14, 1999	Local government perspectives on growth in Colorado.
October 4, 1999	Comments on state-wide and regional growth trends; economic trends and projections; comments on growth in Colorado.
October 12, 1999	Comments on growth and the "The Mineral Preservation Act"; perspectives on growth in Colorado from the agricultural and water communities.
October 28, 1999	Committee consideration of draft legislation.

Memoranda and Reports

Legislative Council Staff memoranda titles:

Colorado Development and Growth Bills: 1992-1999, Julie George, Research Assistant, July 28, 1999.

Reports provided to the committee:

National Association of Home Builders Statement of Policy on Smart Growth, NAHB Executive Committee, March 15, 1999.

Colorado Preliminary Population Projections, Demography Section, Colorado Division of Local Government, July, 1998.

Proposed Principles of a Colorado Growth Management Strategy: A Consensus Position, Colorado Forum, October, 1999.

The Geography of Colorado's Growth, Dr. Thomas A. Clark, Department of Planning and Design, College of Architecture and Planning, University of Colorado at Denver, August 9, 1999.

Growing Smart Legislative Guidebook, Model Statutes for Planning and the Management of Change, American Planning Association, September, 1998.

Bill A

BY SENATOR Sullivant;
also REPRESENTATIVE Plant.

A BILL FOR AN ACT

CONCERNING THE RETENTION OF STATE REVENUES IN EXCESS OF THE
CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR
CERTAIN FISCAL YEARS FOR THE PURPOSE OF FINANCING A PROGRAM
OF STATE GRANTS TO LOCAL GOVERNMENTS FOR THE PURCHASE OF
INTERESTS IN REAL PROPERTY IN DESIGNATED RURAL LEGACY AREAS.

Bill Summary

"Rural Legacy Grants Program"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. Creates the state rural legacy trust fund in the state treasury. Requires the state treasurer to transfer annually to the trust fund the amount of state excess revenues that the state is authorized to retain for the fiscal year 1999-2000, and all fiscal years thereafter. Specifies that such transfers are not appropriations subject to the statutory limitation on state general fund appropriations.

Creates a rural legacy board in the department of local affairs. Specifies the membership of the board. Empowers the board to, among other things, designate areas as rural legacy areas and to approve requests for designation of such areas and related rural legacy plans. Specifies the contents of applications for designation of such areas and plans.

Authorizes the board to approve and to award grant moneys to sponsors of such areas through grant agreements for the purchase of easement or fee estate acquisitions in such areas. Imposes compliance and reporting requirements on sponsors with respect to such agreements.

Defines terms.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Section 20 of article X of the state constitution, which was approved by the registered electors of the state in 1992, limits the growth of state fiscal year spending;

(b) When revenues exceed the state fiscal year spending limitation for any given fiscal year, section 20 (d) (7) of article X of the state constitution requires that the excess revenues be refunded in the next fiscal year unless voters approve a revenue change allowing the state to keep the revenues;

(c) Revenues are currently estimated to exceed the state fiscal year spending limitation for the 1999-2000 fiscal year and for several state fiscal years thereafter;

(d) Sprawl development and other modifications to the natural landscape in Colorado continue at an alarming rate, consuming land rich in natural resources, agricultural, and forestry value, adversely affecting the quality of the state's natural heritage, including wetlands and habitat, threatening resource-based economies and cultural assets, and harming the fabric of rural life;

(e) Existing state, county, and local land conservation programs help to limit the effects of sprawl development but lack sufficient funding and focus to preserve key areas before escalating land values make their protection impossible or the land is forever lost to development. A grant program administered by the state that leverages available funding, focuses on preservation of strategic resources, including those resources threatened by sprawl development, streamlines real property acquisition to expedite land

preservation, and promotes a greater level of natural resources protection than is provided by existing efforts will establish a rural legacy for future generations of Coloradans.

(f) It is within the legislative prerogative of the general assembly to enact legislation seeking voter approval to retain a portion of revenues in excess of the limitation on state fiscal year spending to be expended for the purpose of financing a program of state grants to local governments in order that these entities possess sufficient resources to purchase interests in real property in designated rural legacy areas.

SECTION 2. Article 75 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 11

STATE RURAL LEGACY TRUST FUND

24-75-1101. State rural legacy trust fund - created. (1) THERE IS HEREBY ESTABLISHED IN THE STATE TREASURY THE STATE RURAL LEGACY TRUST FUND, WHICH SHALL BE ADMINISTERED BY THE RURAL LEGACY BOARD CREATED PURSUANT TO SECTION 29-16-104, C.R.S., AND WHICH SHALL CONSIST OF GENERAL FUND REVENUES TRANSFERRED THERETO PURSUANT TO SUBSECTION (2) OF THIS SECTION. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

(2) (a) NO LATER THAN FEBRUARY 1, 2001, THE STATE TREASURER SHALL TRANSFER ANY AMOUNT OF REVENUES FROM THE GENERAL FUND TO THE STATE RURAL LEGACY TRUST FUND CREATED IN SUBSECTION (1) OF THIS SECTION EQUAL TO THE LESSER OF:

(I) SEVENTEEN MILLION DOLLARS; OR

(II) THE AMOUNT OF STATE REVENUES FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING THAT IS IN EXCESS OF THE FISCAL YEAR SPENDING LIMITATION IMPOSED UPON THE STATE BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THE 1999-2000 STATE FISCAL YEAR.

(b) (I) UPON CERTIFICATION THAT STATE REVENUES FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING EXCEED THE LIMITATION ON FISCAL YEAR SPENDING IMPOSED UPON THE STATE BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR ANY FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2000, THE STATE TREASURER SHALL TRANSFER AN AMOUNT OF REVENUES FROM THE GENERAL FUND TO THE STATE RURAL LEGACY TRUST FUND CREATED IN SUBSECTION (1) OF THIS SECTION EQUAL TO THE LESSER OF:

(A) SEVENTEEN MILLION DOLLARS; OR

(B) THE AMOUNT OF STATE REVENUES FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING THAT IS IN EXCESS OF THE FISCAL YEAR SPENDING LIMITATION IMPOSED UPON THE STATE BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AS CERTIFIED AND AUDITED PURSUANT TO SECTION 24-77-106.5.

(II) THE STATE TREASURER SHALL TRANSFER SAID AMOUNT OF REVENUES TO THE STATE RURAL LEGACY TRUST FUND NO LATER THAN NOVEMBER 1 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR FOR WHICH SUCH EXCESS STATE REVENUES ARE CERTIFIED ENDS.

(c) ANY TRANSFER OF REVENUES FROM THE GENERAL FUND TO THE STATE RURAL LEGACY TRUST FUND PURSUANT TO THE PROVISIONS OF THIS

SECTION SHALL NOT BE DEEMED TO BE AN APPROPRIATION SUBJECT TO THE LIMITATION OF SECTION 24-75-201.1.

(d) REVENUES TRANSFERRED TO THE STATE RURAL LEGACY TRUST FUND PURSUANT TO THIS SECTION SHALL CONSTITUTE A VOTER-APPROVED REVENUE CHANGE, AND SUCH REVENUES SHALL NOT BE INCLUDED IN EITHER STATE OR LOCAL GOVERNMENT FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND SECTION 24-77-102 (17).

SECTION 3. Title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 16

Rural Legacy Grants Program

29-16-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "RURAL LEGACY GRANTS PROGRAM".

29-16-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) SPRAWL DEVELOPMENT AND OTHER MODIFICATIONS TO THE NATURAL LANDSCAPE IN COLORADO CONTINUE AT AN ALARMING RATE, CONSUMING LAND RICH IN NATURAL RESOURCES, AGRICULTURAL, AND FORESTRY VALUE, ADVERSELY AFFECTING THE QUALITY OF THE STATE'S NATURAL HERITAGE, INCLUDING WETLANDS AND HABITAT, THREATENING RESOURCE-BASED ECONOMIES AND CULTURAL ASSETS, AND HARMING THE FABRIC OF RURAL LIFE; AND

(b) EXISTING STATE, COUNTY, AND LOCAL LAND CONSERVATION PROGRAMS HELP TO LIMIT THE EFFECTS OF SPRAWL DEVELOPMENT BUT LACK SUFFICIENT FUNDING AND FOCUS TO PRESERVE KEY AREAS BEFORE ESCALATING

LAND VALUES MAKE THEIR PROTECTION IMPOSSIBLE OR THE LAND IS FOREVER LOST TO DEVELOPMENT. A GRANT PROGRAM ADMINISTERED BY THE STATE THAT LEVERAGES AVAILABLE FUNDING, FOCUSES ON PRESERVATION OF STRATEGIC RESOURCES, INCLUDING THOSE RESOURCES THREATENED BY SPRAWL DEVELOPMENT, STREAMLINES REAL PROPERTY ACQUISITION TO EXPEDITE LAND PRESERVATION, AND PROMOTES A GREATER LEVEL OF NATURAL RESOURCES PROTECTION THAN IS PROVIDED BY EXISTING EFFORTS WILL ESTABLISH A RURAL LEGACY FOR FUTURE GENERATIONS OF COLORADANS.

29-16-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPLICATION" MEANS AN APPLICATION FILED WITH THE BOARD TO DESIGNATE A RURAL LEGACY AREA.

(2) "BOARD" MEANS THE RURAL LEGACY BOARD.

(3) "GRANT AGREEMENT" MEANS AN AGREEMENT BETWEEN THE BOARD AND A SPONSOR TO IMPLEMENT A RURAL LEGACY PLAN IN A DESIGNATED RURAL LEGACY AREA.

(4) "LOCAL GOVERNMENT" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-32-102 (1), C.R.S.

(5) "PROGRAM" MEANS THE RURAL LEGACY GRANTS PROGRAM ESTABLISHED BY THIS ARTICLE.

(6) "RURAL LEGACY AREA" MEANS A DISCRETE AREA OF LAND THAT HAS BEEN DESIGNATED BY THE BOARD AS RICH IN A MULTIPLE OF AGRICULTURAL, FORESTRY, NATURAL, AND CULTURAL RESOURCES.

(7) "RURAL LEGACY PLAN" MEANS A PLAN ACCEPTED BY THE BOARD FOR ACQUISITION OF EASEMENTS AND FEE INTERESTS IN RURAL LEGACY AREAS.

(8) "SPONSOR" MEANS ANY LOCAL GOVERNMENT OR COMBINATION OF LOCAL GOVERNMENTS FILING A SINGLE APPLICATION UNDER THE PROVISIONS OF THIS ARTICLE.

29-16-104. Rural legacy board - creation. (1) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF LOCAL AFFAIRS, THE RURAL LEGACY BOARD. THE BOARD SHALL CONSIST OF SEVEN MEMBERS TO BE APPOINTED AS FOLLOWS:

(a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, OR HIS OR HER DESIGNEE;

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES, OR HIS OR HER DESIGNEE;

(c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS, OR HIS OR HER DESIGNEE;

(d) FOUR MEMBERS APPOINTED BY THE GOVERNOR FROM AMONG PRIVATE CITIZENS WHO SHALL REPRESENT GEOGRAPHICALLY DIVERSE AREAS AND WHO ARE WIDELY KNOWN FOR THEIR COMPETENCE AND EXPERIENCE IN THE AREAS OF AGRICULTURE, NATURAL RESOURCES, LAND USE AND PLANNING, THE STATE'S CULTURAL HERITAGE, TOURISM, RECREATION, OR RELATED FIELDS.

(2) EACH MEMBER APPOINTED TO THE BOARD SHALL SERVE FOR THREE YEARS COMMENCING ON JULY 1 OF THE YEAR OF APPOINTMENT; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED TO THE BOARD, TWO MEMBERS SHALL SERVE FOR A TERM OF THREE YEARS, AND TWO MEMBERS SHALL SERVE FOR A TERM OF TWO YEARS. MEMBERS OF THE BOARD APPOINTED BY THE GOVERNOR SHALL NOT BE ELIGIBLE TO SERVE FOR MORE THAN TWO CONSECUTIVE TERMS NOR BE ELIGIBLE FOR REAPPOINTMENT TO THE BOARD

DURING THE THREE-YEAR PERIOD FOLLOWING THE EXPIRATION OF TWO CONSECUTIVE TERMS.

(3) THE BOARD SHALL MEET AT LEAST ONCE IN EVERY CALENDAR QUARTER, ELECT A CHAIRPERSON AND A VICE-CHAIRPERSON FROM AMONG ITS MEMBERSHIP, KEEP A RECORD OF ITS PROCEEDINGS, AND ADOPT ITS OWN RULES OF PROCEDURE. FOUR MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM.

(4) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

(5) TO THE EXTENT THAT THE BOARD REQUIRES STAFF ASSISTANCE IN FURTHERANCE OF ITS DUTIES, SUCH STAFF SHALL BE PROVIDED FROM AMONG EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE, LOCAL AFFAIRS, OR NATURAL RESOURCES.

29-16-105. Rural legacy board - powers and duties. (1) THE BOARD SHALL HAVE THE FOLLOWING POWERS AND DUTIES IN ADMINISTERING THIS ARTICLE:

(a) TO RECOMMEND TO THE DEPARTMENT OF LOCAL AFFAIRS THE PROMULGATION OF REASONABLE RULES NECESSARY FOR THE ADMINISTRATION OF THIS ARTICLE PURSUANT TO SECTION 24-4-103, C.R.S.;

(b) TO DESIGNATE AREAS AS RURAL LEGACY AREAS PURSUANT TO THE PROVISIONS OF THIS ARTICLE;

(c) TO ADOPT AND PUBLICIZE CRITERIA REGARDING DESIGNATION OF RURAL LEGACY AREAS AND GRANT AWARDS MADE PURSUANT TO THIS ARTICLE;

(d) TO APPROVE APPLICATIONS FOR DESIGNATION OF RURAL LEGACY AREAS AND GRANT AWARDS SUBMITTED UNDER THIS ARTICLE AND TO DETERMINE THE AMOUNT OF MONEY TO BE AWARDED THROUGH SUCH GRANTS;

(e) TO ESTABLISH A METHOD FOR APPRAISAL OF REAL PROPERTY INTERESTS ACQUIRED UNDER THIS ARTICLE;

(f) TO RECEIVE AND EXPEND GIFTS, GRANTS, AND BEQUESTS, SUBJECT TO APPROVAL OF THE GOVERNOR;

(g) TO SUE AND BE SUED AS A BOARD, WITHOUT INDIVIDUAL LIABILITY, FOR ACTS OF THE BOARD WITHIN THE SCOPE OF THE POWERS CONFERRED UPON IT BY THIS ARTICLE; AND

(h) TO EXERCISE ANY OTHER POWERS OR PERFORM ANY OTHER DUTIES THAT ARE CONSISTENT WITH THE PURPOSES OF THIS ARTICLE AND THAT ARE REASONABLY NECESSARY FOR THE FULFILLMENT OF THE BOARD'S RESPONSIBILITIES.

29-16-106. Applications for designation of rural legacy areas - contents of applications - criteria for review of applications - limitations on applications. (I) A SPONSOR MAY FILE AN APPLICATION TO DESIGNATE A RURAL LEGACY AREA IN ACCORDANCE WITH A SCHEDULE ESTABLISHED BY THE BOARD. A LOCAL GOVERNMENT SHALL NOT SUBMIT AN APPLICATION FOR A RURAL LEGACY AREA DESIGNATION INSIDE THE BOUNDARIES OF ANOTHER POLITICAL SUBDIVISION WITHOUT THE APPROVAL OF THAT SUBDIVISION.

(2) THE APPLICATION SHALL:

(a) DESCRIBE THE PROPOSED RURAL LEGACY AREA;

(b) INCLUDE A RURAL LEGACY PLAN;

(c) IDENTIFY EXISTING PROTECTED LANDS;

(d) IDENTIFY THE ANTICIPATED LEVEL OF LANDOWNER PARTICIPATION IN THE PROGRAM AND THE AMOUNT OF THE GRANT REQUESTED; AND

(e) OTHERWISE COMPLY WITH THE CRITERIA SET FORTH IN THIS SECTION.

(3) THE BOARD SHALL EVALUATE AND COMPARE APPLICATIONS IN ACCORDANCE WITH THE CRITERIA SET FORTH IN THIS SUBSECTION (3) IN ORDER TO DESIGNATE THOSE AREAS THAT BEST SATISFY THE GOALS AND OBJECTIVES OF THE PROGRAM AS SET FORTH IN SECTION 29-16-102:

(a) THE SIGNIFICANCE OF THE AGRICULTURAL, FORESTRY, AND NATURAL RESOURCES PROPOSED FOR PROTECTION, INCLUDING:

(I) THE DEGREE TO WHICH PROPOSED FEE OR EASEMENT PURCHASES WILL PROTECT THE LOCATION, PROXIMITY, AND SIZE OF CONTIGUOUS BLOCKS OF LAND, GREEN BELTS, OR GREENWAYS OR AGRICULTURAL, FORESTRY, OR NATURAL RESOURCE CORRIDORS;

(II) THE NATURE, SIZE, AND IMPORTANCE OF THE LAND AREA TO BE PROTECTED, SUCH AS FARMLAND, FORESTS, WETLANDS, WILDLIFE HABITAT, AND PLANT SPECIES, VEGETATIVE BUFFERS, OR WATERFRONT ACCESS;

(III) THE QUALITY AND PUBLIC OR ECONOMIC VALUE OF THE LAND;

(b) THE DEGREE OF THREAT TO THE RESOURCES AND CHARACTER OF THE AREA PROPOSED FOR PRESERVATION, AS REFLECTED BY PATTERNS AND TRENDS OF DEVELOPMENT AND LANDSCAPE MODIFICATIONS IN AND SURROUNDING THE PROPOSED RURAL LEGACY AREA;

(c) THE SIGNIFICANCE AND EXTENT OF THE CULTURAL RESOURCES PROPOSED FOR PROTECTION THROUGH FEE SIMPLE PURCHASES, INCLUDING THE IMPORTANCE OF HISTORIC SITES AND SIGNIFICANT ARCHAEOLOGICAL AREAS;

(d) THE ECONOMIC VALUE OF THE RESOURCE-BASED INDUSTRIES OR SERVICES PROPOSED FOR PROTECTION THROUGH LAND CONSERVATION, SUCH AS AGRICULTURE, FORESTRY, RECREATION, AND TOURISM;

(e) THE OVERALL QUALITY AND COMPLETENESS OF THE RURAL LEGACY PLAN, INCLUDING:

(I) THE DEGREE TO WHICH EXISTING PLANNING, ZONING, AND GROWTH MANAGEMENT POLICIES CONTRIBUTE TO LAND CONSERVATION AND THE PROTECTION OF NATURAL RESOURCES;

(II) THE DEGREE TO WHICH THE PROPOSED RURAL LEGACY PLAN IS CONSISTENT WITH THE APPLICABLE MASTER PLAN AS ADOPTED BY ALL LOCAL GOVERNMENTS IN WHICH BOUNDARIES THE PROPOSED RURAL LEGACY AREA IS LOCATED, INCLUDING WITHOUT LIMITATION, PROTECTION OF SENSITIVE AREAS AND MINERAL RESOURCES;

(III) THE DEGREE TO WHICH EXISTING OR NEW CONSERVATION PROGRAMS ARE COORDINATED WITH THE PROPOSED RURAL LEGACY PLAN;

(IV) THE DEGREE TO WHICH THE RURAL LEGACY PLAN WILL MAXIMIZE ACQUISITION OF REAL PROPERTY INTERESTS IN CONTIGUOUS BLOCKS OF LAND WITHIN THE RURAL LEGACY AREA WHILE PROVIDING FOR PROTECTION OF ISOLATED ACQUISITIONS ALSO IMPORTANT TO SUCH PLAN;

(V) THE DEGREE TO WHICH THE RURAL LEGACY PLAN MAKES PROVISIONS FOR THE PROTECTION OF RESOURCES, INCLUDING VOLUNTARILY GRANTED OR PURCHASED EASEMENTS, FEE ESTATE PURCHASES, OR GIFTS OF LANDS;

(VI) THE DEGREE TO WHICH THE SPONSOR PLANS TO MANAGE, PRIORITIZE, AND SEQUENCE EASEMENT AND LAND ACQUISITIONS;

(VII) AN APPLICABLE METHODOLOGY FOR PRIORITIZING AND VALUING OR APPRAISING EASEMENTS;

(VIII) PROPOSED RECORD OWNERS FOR EASEMENT OR FEE ESTATE ACQUISITIONS; AND

(IX) THE QUALITY OF THE PROPOSED STEWARDSHIP PROGRAM FOR MAINTAINING AND MONITORING EASEMENT RESTRICTIONS;

(f) THE STRENGTH AND QUALITY OF PARTNERSHIPS CREATED FOR LAND CONSERVATION AMONG FEDERAL, STATE, AND LOCAL GOVERNMENTS FOR IMPLEMENTING THE RURAL LEGACY PLAN, INCLUDING:

(I) FINANCIAL SUPPORT;

(II) DEDICATION OF STAFF AND RESOURCES; AND

(III) COMMITMENT TO AND DEVELOPMENT OF LOCAL LAND CONSERVATION POLICIES, SUCH AS CHANGES IN ZONING AND USE OF TRANSFERABLE DEVELOPMENT RIGHTS;

(g) THE EXTENT TO WHICH FEDERAL OR OTHER GRANT PROGRAMS WILL SERVE AS A FUNDING MATCH;

(h) A SPONSOR'S ABILITY TO CARRY OUT THE PROPOSED RURAL LEGACY PLAN AND THE GOALS AND OBJECTIVES OF THE PROGRAM.

(4) THE BOARD:

(a) SHALL REVIEW APPLICATIONS AND MAY REQUEST ADDITIONAL INFORMATION FROM A SPONSOR;

(b) SHALL SUBMIT APPLICATIONS TO APPROPRIATE STATE AGENCIES AND CONSIDER ANY RECOMMENDATIONS OFFERED BY SUCH AGENCIES; AND

(c) MAY NEGOTIATE THE TERMS OF A PROPOSED RURAL LEGACY AREA AND PLAN WITH A SPONSOR.

(5) A SPONSOR SHALL ASSURE ADEQUATE PUBLIC PARTICIPATION IN THE DEVELOPMENT OF AN APPLICATION AND PROVIDE THE BOARD WITH A SUMMARY OF THAT PARTICIPATION.

(6) (a) IF AN APPLICATION PROPOSES THAT A RURAL LEGACY AREA BE LOCATED WITHIN ONE MILE OF THE BOUNDARY OF A MUNICIPALITY, THE

MUNICIPALITY SHALL HAVE FORTY-FIVE DAYS WITHIN WHICH TO REVIEW AND COMMENT ON THE APPLICATION BEFORE THE APPLICATION IS SUBMITTED TO THE BOARD.

(b) THE SPONSOR SHALL SUBMIT TO THE BOARD WITH THE COMPLETED APPLICATION A SUMMARY OF THE COMMENTS FROM THE MUNICIPALITY.

(7) THE BOARD SHALL NOT APPROVE OR AMEND AN APPLICATION WITHOUT APPROVAL OF THE SAME BY ALL LOCAL GOVERNMENTS IN WHICH BOUNDARIES THE PROPOSED RURAL LEGACY AREA IS LOCATED.

(8) WITH THE APPROVAL OF A LANDOWNER, MONEYS MADE AVAILABLE UNDER THIS PROGRAM MAY BE USED TO PURCHASE A DEVELOPMENT RIGHT AS PART OF AN EASEMENT OR FEE SIMPLE ACQUISITION.

(9) ALL EASEMENT ACQUISITIONS MADE PURSUANT TO THIS ARTICLE MUST BE RECORDED AMONG THE LAND RECORDS WHERE SUCH REAL PROPERTY IS LOCATED.

(10) STATE OR LOCAL CONDEMNATION AUTHORITY SHALL NOT BE USED TO ACQUIRE INTERESTS IN REAL PROPERTY UNDER THIS ARTICLE.

(11) MONEYS MADE AVAILABLE UNDER THIS ARTICLE MAY BE USED FOR THE PROTECTION OF HISTORIC SITES OR SIGNIFICANT ARCHEOLOGICAL AREAS THAT OTHERWISE MEET THE GOALS OF THIS PROGRAM ONLY WHERE THE SPONSOR IS ACQUIRING REAL PROPERTY INTERESTS THROUGH A FEE SIMPLE PURCHASE.

(12) A LAND OR MINERAL OWNER WHO PARTICIPATES IN THIS PROGRAM MAY RESERVE MINERAL RIGHTS FOR EXTRACTION IN ACCORDANCE WITH APPLICABLE LAW AND THE TERMS OF THE EASEMENT OR FEE ACQUISITION.

29-16-107. Rural legacy areas - grants. (1) THE BOARD MAY DESIGNATE A RURAL LEGACY AREA AND ACCEPT A RURAL LEGACY PLAN IN ACCORDANCE WITH THE CRITERIA SET FORTH IN THIS ARTICLE AND THE OVERALL GOALS AND OBJECTIVES OF THE PROGRAM.

(2) IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, THE BOARD MAY AWARD A GRANT TO A SPONSOR OF A DESIGNATED RURAL LEGACY AREA IN AN AMOUNT DETERMINED BY THE BOARD AND PURSUANT TO THE TERMS OF A GRANT AGREEMENT FOR THE PURPOSE OF ACQUIRING AN EASEMENT OR FEE ESTATE INTEREST AFFECTING REAL PROPERTY LOCATED IN SUCH AREA.

(3) A PORTION OF THE GRANT MAY BE USED TO PAY FOR:

(a) ADMINISTRATIVE COSTS, NOT TO EXCEED THREE PERCENT OF THE GRANT AMOUNT; AND

(b) PROGRAM COMPLIANCE COSTS FOR MONITORING EASEMENTS AS STATED IN THE GRANT AGREEMENT.

(4) THE BOARD MAY ESTABLISH TIME LIMITATIONS OR OTHER RESTRICTIONS ON THE USE OF GRANT FUNDS AS IT MAY FIND REASONABLE IN THE EXERCISE OF ITS DISCRETION.

(5) THE BOARD SHALL ENCOURAGE LOCAL GOVERNMENTS TO INCORPORATE RURAL LEGACY PLANS IN THEIR MASTER PLANS AS UPDATED AND REVISED.

29-16-108. Grant agreements - compliance - reporting. (1) THE BOARD AND THE SPONSOR OF A DESIGNATED RURAL LEGACY AREA SHALL EXECUTE A GRANT AGREEMENT.

(2) THE SPONSOR SHALL COMPLY WITH THE TERMS OF THE GRANT AGREEMENT, CARRY OUT THE RURAL LEGACY PLAN, AND OBSERVE ANY REGULATIONS ADOPTED BY THE BOARD.

(3) IF A SPONSOR VIOLATES ANY PROVISION OF THE GRANT AGREEMENT OR CEASES TO MEET THE REQUIREMENTS OF THIS ARTICLE, THE BOARD MAY EXERCISE ANY REMEDY PROVIDED BY AGREEMENT OR BY LAW.

(4) THE SPONSOR SHALL SUBMIT TO THE BOARD FOR ITS APPROVAL CONTRACTS FOR EASEMENT OR FEE ESTATE ACQUISITIONS. UPON ITS APPROVAL, THE STATE, THROUGH THE BOARD, SHALL REMIT TO THE SPONSOR SUCH MONEYS AS ARE REQUIRED TO COMPLETE THE ACQUISITION.

(5) THE SPONSOR SHALL SUBMIT A REPORT TO THE BOARD BY JANUARY 1 OF EACH CALENDAR YEAR FOLLOWING THE YEAR IN WHICH A GRANT AWARD WAS MADE CONTAINING A STATEMENT OF ALL MONEYS RECEIVED UNDER THIS ARTICLE, THE PURPOSES FOR WHICH THE MONEYS WERE USED, THE SPONSOR'S COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE, AND SUCH OTHER INFORMATION AS THE BOARD MAY REQUIRE.

(6) THE BOARD SHALL REPORT TO THE GOVERNOR AND TO THE GENERAL ASSEMBLY BEFORE NOVEMBER 1 OF EACH YEAR WITH RESPECT TO:

(a) THE FINANCIAL STATUS OF THE PROGRAM FOR THE PRECEDING FISCAL YEAR, INCLUDING THE AMOUNT OF GRANTS ENCUMBERED AND DISBURSED;

(b) THE NUMBER OF APPLICATIONS RECEIVED; AND

(c) THE PROGRAM'S PROGRESS IN CONTRIBUTING TO LAND PRESERVATION EFFORTS.

29-16-109. Additional sources of funding. ANY SPONSOR MAY PURSUE ADDITIONAL SOURCES OF FUNDING TO CARRY OUT THE OVERALL GOALS AND OBJECTIVES OF THIS ARTICLE, INCLUDING WITHOUT LIMITATION, GRANTS, DONATIONS, AND CONTRIBUTIONS FROM ANY OTHER PRIVATE OR PUBLIC SOURCE.

SECTION 4. Refer to people under referendum . This act shall be submitted to a vote of the registered electors of the state of Colorado at the next biennial general election, for their approval or rejection, under the provisions of the referendum as provided for in section 1 of article v of the state constitution, and in article 40 of title 1, Colorado Revised statutes. Each elector voting at said election and desirous of voting for or against said act shall cast a vote as provided by law either "Yes" or "No" on the proposition: "SHALL THE STATE OF COLORADO BE PERMITTED TO ANNUALLY RETAIN UP TO SEVENTEEN MILLION DOLLARS OF THE STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE 1999-2000 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER FOR THE PURPOSE OF ESTABLISHING A PROGRAM WHEREBY THE STATE WILL AWARD GRANT MONEYS TO LOCAL GOVERNMENTS FOR THE PURCHASE OF INTERESTS IN REAL PROPERTY IN DESIGNATED RURAL LEGACY AREAS, NOTWITHSTANDING ANY RESTRICTION ON SPENDING, REVENUES, OR APPROPRIATIONS, INCLUDING WITHOUT LIMITATION THE RESTRICTIONS OF SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE STATUTORY LIMITATION ON STATE GENERAL FUND APPROPRIATIONS, AND, IN CONNECTION THEREWITH, REQUIRING ANNUAL TRANSFERS OF SUCH EXCESS REVENUES FOR THESE PURPOSES, AND SPECIFYING THE FUND TO WHICH A PORTION OF THE EXCESS REVENUES IS TO BE TRANSFERRED FOR THESE PURPOSES?" The votes cast for the adoption or rejection of said act shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress.

DRAFT

Bill A

Colorado Legislative Council Staff

**STATE and LOCAL
CONDITIONAL FISCAL IMPACT**

Drafting Number: LLS 00-0382

Date: December 8, 1999

Prime Sponsor(s): Sen. Sullivant
Rep. Plant

Bill Status: Committee on Development and
Growth in Colorado

Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING THE RETENTION OF STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR CERTAIN FISCAL YEARS FOR THE PURPOSE OF FINANCING A PROGRAM OF STATE GRANTS TO LOCAL GOVERNMENTS FOR THE PURCHASE OF INTERESTS IN REAL PROPERTY IN DESIGNATED RURAL LEGACY AREAS.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002
State Revenues		
General Fund		
Cash Fund Exempt	\$17,000,000	\$17,000,000
State Expenditures		
General Fund Transfer	\$17,000,000	\$17,000,000
Cash Fund Exempt	\$17,000,000	\$17,000,000
FTE Position Change	1.5 FTE	3.0 FTE

Other State Impact: TABOR refund mechanism.

Effective Date: Upon proclamation of voter approval at the 2000 General Election.

Appropriation Summary for FY 2000-2001:

Department of Local Affairs - Cash Fund Exempt - 1.5 FTE and \$17,000,000

Local Government Impact: A portion of a rural legacy grant may be used to pay for local government administrative and compliance costs.

Summary of Legislation

This referred bill establishes the State Rural Legacy Trust Fund in the State Treasury, establishes the Rural Legacy Grants Program in the Department of Local Affairs, and creates the Rural Legacy Board to administer the trust fund and program. The bill requires the State Treasurer, no later than February 1, 2001, to transfer from the General Fund to the trust fund an amount equal to the lesser of \$17 million or the amount of state revenues in excess of the fiscal year spending limitation not refunded by another method for FY 1999-2000. For every fiscal year thereafter, the transfer is to be made no later than November 1 of each year. The amounts of the annual transfers are not to be included in state or local government fiscal year spending.

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Bill A

The board is to consist of seven members, including the Executive Directors of the departments of Agriculture, Natural Resources, and Local Affairs; and four members appointed by the Governor. The bill specifies the terms of the members, requires the board to meet at least once per quarter, and authorizes the members to be reimbursed for actual and necessary expenses. Staff assistance is to be provided by employees of the departments of Agriculture, Natural Resources, or Local Affairs.

The bill authorizes the board to:

- recommend to the Department of Local Affairs the promulgation of rules;
- designate areas as rural legacy areas;
- adopt and publicize criteria regarding rural legacy areas and grant awards;
- approve applications for designation and grant awards;
- establish a method for appraisal of real property under the program; and
- receive gifts, grants, and bequests.

The bill specifies procedures for local government sponsors to file applications, and specifies procedures and criteria for the board to evaluate, compare, and approve applications. The board may award a grant to a sponsor for the purpose of acquiring an easement or fee estate interest affecting real property of a designated rural legacy area. The bill stipulates that a portion of the grant may be used for administrative costs and program compliance costs for monitoring easements. The bill requires the board and the sponsor of a designated rural legacy area to execute a grant agreement.

State Revenue

Any revenues transferred to the State Rural Legacy Trust Fund constitute a voter-approved revenue change. These revenues are to not be included in either state or local government fiscal year spending for purposes of Section 20 of Article X of the state constitution regarding the TABOR amendment, and section 24-77-102 (17), C.R.S., regarding the six percent General Fund appropriation limit.

State Expenditures

State expenditure estimates to support this program are based upon the following assumptions:

- the program, if approved by the voters, will be effective in January 2001, therefore the program will be in effect for six months during FY 2000-01;

DRAFT

Bill A

- the Department of Local Affairs will receive and coordinate all grant applications, and administer the program;
- the Rural Legacy Board will meet six times per year;
- the department will receive and evaluate 40 applications per year;
- the board will award 10 grants per year;
- the department will be required to support all board activities and evaluate all applications per the criteria specified by the bill; and
- any remaining balance in the trust fund will be carried forward to the next fiscal year and will earn interest at a rate of 5.5 percent per year.

Table 1 provides a summary of the department's estimated annual expenditures to support this program.

Table 1 - Department of Local Affairs State Rural Legacy Trust Fund Expenditures		
	FY 2000/2001	FY 2001/2002
<u>Personal Services</u>		
Gen Prof II	0.5 FTE - \$14,706	1.0 FTE - \$29,412
Gen Prof VI	0.5 FTE - 36,750	1.0 FTE - 73,500
Prog Asst I	0.5 FTE - 13,050	1.0 FTE - 26,100
Subtotal	64,506	129,012
PERA/Medicare	8,289	16,578
Total	72,795	145,590
Operating Expenses	5,000	5,000
Hearing Expenses	4,500	3,000
Legal Expenses - Dept of Law	4,000	1,500
Non-recurring Expenses	10,524	0
Rural Legacy Grants	16,903,181	16,844,910
Total Expenses	1.5 FTE - \$17,000,000	3.0 FTE - \$17,000,000

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Bill A

Expenditures Not Included

Pursuant to the Joint Budget Committee's budget policies, the following expenditures have not been included in this fiscal note:

- health and life insurance costs of \$3,317;
- short-term disability costs of \$135;
- inflationary cost factors;
- leased space costs of \$6,555; and
- indirect costs of \$22,874.

Local Government Impact

Local governments, as sponsors of applications for rural legacy areas, will incur additional administrative costs to develop and implement the program. The Department of Local Affairs assumes that 25% of the applications will be awarded a rural legacy grant. The bill authorizes a portion of the grant to be used to pay for local government administrative costs and compliance costs.

State Appropriations

This fiscal note would imply the Department of Local Affairs would require a State Rural Legacy Trust Fund appropriation of 1.5 FTE and \$17,000,000 for FY 2000-01.

Departments Contacted

Local Affairs
Treasury

Natural Resources

Agriculture

Law

Bill B

BY REPRESENTATIVES Stengel, Plant, and Witwer;
also SENATOR Hillman.

A BILL FOR AN ACT

CONCERNING FACTORS TO BE USED BY GOVERNMENTAL BODIES IN
CONNECTION WITH LAND USE REGULATIONS.

Bill Summary

"Land Use Factors For Govt Bodies"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. Expresses the will of the general assembly that county and municipal regulations in the areas of planning and zoning be coordinated with those of any adjacent authorities to eliminate conflicts or inconsistencies and to assure the compatibility of such regulations. Expresses the will of the general assembly that such county and municipal regulations in the areas of planning and zoning, to the greatest extent possible, promote consistent treatment of similarly-situated applicants in connection with the approval process, facilitate timely review by administrative decision makers with the minimal number of required procedures to obtain the necessary approvals, and encourage in-fill development through infrastructure placement and other incentives, including without limitation, special consideration to in-fill projects that promote low- to moderate-income housing. Expresses the will of the general assembly that such regulations encourage a demonstrably fair balance between the number of jobs created and housing permits issued. Expresses the will of the general assembly that such regulations be reviewed on an ongoing basis to eliminate outdated, outmoded, unnecessary, or superfluous provisions.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 30-28-115 (1), Colorado Revised Statutes, is amended, and the said 30-28-115 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTION to read:

30-28-115. Public welfare to be promoted - legislative declaration - construction. (1) (a) Such regulations shall be designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity, or welfare of the present and future inhabitants of the state, including lessening the congestion in the streets or roads or reducing the waste of excessive amounts of roads, promoting energy conservation, securing safety from fire, floodwaters, and other dangers, providing adequate light and air, classifying land uses and distributing land development and utilization, protecting the tax base, securing economy in governmental expenditures, fostering the state's agricultural and other industries, and protecting both urban and nonurban development.

(b) THE GENERAL ASSEMBLY DECLARES THAT ANY REGULATIONS ADOPTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL BE COORDINATED WITH THOSE OF ANY ADJACENT COUNTY, REGION, OR OTHER POLITICAL SUBDIVISION, AS THE CASE MAY BE, TO ELIMINATE CONFLICTS OR INCONSISTENCIES AND TO ASSURE THE COMPATIBILITY OF SUCH REGULATIONS AMONG SUCH POLITICAL SUBDIVISIONS. THE GENERAL ASSEMBLY FURTHER DECLARES THAT SUCH REGULATIONS SHALL, TO THE GREATEST EXTENT POSSIBLE:

(I) PROMOTE CONSISTENT TREATMENT OF SIMILARLY-SITUATED APPLICANTS IN CONNECTION WITH THE APPROVAL PROCESS;

(II) FACILITATE TIMELY REVIEW BY ADMINISTRATIVE DECISION MAKERS WITH A MINIMAL NUMBER OF REQUIRED PROCEDURES TO OBTAIN NECESSARY APPROVALS; AND

(III) ENCOURAGE IN-FILL DEVELOPMENT THROUGH INFRASTRUCTURE PLACEMENT AND OTHER INCENTIVES, INCLUDING WITHOUT LIMITATION, SPECIAL CONSIDERATION TO IN-FILL PROJECTS THAT CREATE LOW- TO MODERATE-INCOME HOUSING; AND

(IV) ENCOURAGE A DEMONSTRABLY FAIR BALANCE BETWEEN THE NUMBER OF JOBS CREATED AND HOUSING PERMITS ISSUED.

(1.3) SUCH REGULATIONS SHALL, TO THE GREATEST EXTENT POSSIBLE, BE REVIEWED ON AN ONGOING BASIS TO ELIMINATE OUTDATED, OUTMODED, UNNECESSARY, OR SUPERFLUOUS PROVISIONS.

SECTION 2. 31-23-207, Colorado Revised Statutes, is amended to read:

31-23-207. Purposes in view - legislative declaration. (1) (a) In the preparation of such plan, the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality, with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, the promotion of safety from fire, flood waters, and other dangers, adequate provision for light and air, distribution of

population, affordable housing, the promotion of good civic design and arrangement, efficient expenditure of public funds, the promotion of energy conservation, and the adequate provision of public utilities and other public requirements.

(b) THE GENERAL ASSEMBLY DECLARES THAT ANY REGULATIONS ADOPTED PURSUANT TO THE PROVISIONS OF THIS PART 2 SHALL BE COORDINATED WITH THOSE OF ANY ADJACENT MUNICIPALITY TO ELIMINATE CONFLICTS OR INCONSISTENCIES AND TO ASSURE THE COMPATIBILITY OF SUCH REGULATIONS AMONG SUCH MUNICIPALITIES. SUCH REGULATIONS SHALL ALSO BE ADOPTED WITH THE GENERAL PURPOSES OF PROMOTING CONSISTENT TREATMENT OF SIMILARLY-SITUATED APPLICANTS IN CONNECTION WITH THE APPROVAL PROCESS, FACILITATING TIMELY REVIEW BY ADMINISTRATIVE DECISION MAKERS WITH A MINIMAL NUMBER OF REQUIRED PROCEDURES TO OBTAIN NECESSARY APPROVALS, AND ENCOURAGING IN-FILL DEVELOPMENT THROUGH INFRASTRUCTURE PLACEMENT AND OTHER INCENTIVES, INCLUDING WITHOUT LIMITATION, SPECIAL CONSIDERATION TO IN-FILL PROJECTS THAT CREATE LOW- TO MODERATE-INCOME HOUSING. SUCH REGULATIONS SHALL ALSO ENCOURAGE A DEMONSTRABLY FAIR BALANCE BETWEEN THE NUMBER OF JOBS CREATED AND HOUSING PERMITS ISSUED. SUCH REGULATIONS SHALL, TO THE GREATEST EXTENT POSSIBLE, BE REVIEWED ON AN ONGOING BASIS TO ELIMINATE OUTDATED, OUTMODED, UNNECESSARY, OR SUPERFLUOUS PROVISIONS.

SECTION 3. 31-23-303, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTION to read:

(1.3) THE GENERAL ASSEMBLY DECLARES THAT ANY REGULATIONS ADOPTED PURSUANT TO THE PROVISIONS OF THIS PART 3 SHALL BE COORDINATED WITH THOSE OF ANY ADJACENT MUNICIPALITY TO ELIMINATE CONFLICTS OR INCONSISTENCIES AND TO ASSURE THE COMPATIBILITY OF SUCH REGULATIONS AMONG SUCH MUNICIPALITIES. THE GENERAL ASSEMBLY FURTHER DECLARES THAT SUCH REGULATIONS SHALL BE ADOPTED WITH THE GENERAL PURPOSES OF PROMOTING CONSISTENT TREATMENT OF SIMILARLY-SITUATED APPLICANTS IN CONNECTION WITH THE APPROVAL PROCESS, FACILITATING TIMELY REVIEW BY ADMINISTRATIVE DECISION MAKERS WITH A MINIMAL NUMBER OF REQUIRED PROCEDURES TO OBTAIN NECESSARY APPROVALS, AND ENCOURAGING IN-FILL DEVELOPMENT THROUGH INFRASTRUCTURE PLACEMENT AND OTHER INCENTIVES, INCLUDING WITHOUT LIMITATION, SPECIAL CONSIDERATION TO IN-FILL PROJECTS THAT CREATE LOW- TO MODERATE-INCOME HOUSING. SUCH REGULATIONS SHALL ALSO ENCOURAGE A DEMONSTRABLY FAIR BALANCE BETWEEN THE NUMBER OF JOBS CREATED AND HOUSING PERMITS ISSUED. SUCH REGULATIONS SHALL, TO THE GREATEST EXTENT POSSIBLE, BE REVIEWED ON AN ONGOING BASIS TO ELIMINATE OUTDATED, OUTMODED, UNNECESSARY, OR SUPERFLUOUS PROVISIONS.

SECTION 4. Applicability. This act shall apply to county and municipal planning and zoning regulations adopted on or after the effective date of this act.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a

referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

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Bill B

Colorado Legislative Council Staff

**STATE and LOCAL
CONDITIONAL FISCAL IMPACT**

Drafting Number: LLS 00-0340
Prime Sponsor(s): Rep. Stengel
Sen. Hillman

Date: November 12, 1999
Bill Status: Interim Committee on Development
and Growth
Fiscal Analyst: Steve Tammus (303-866-2756)

TITLE: CONCERNING FACTORS TO BE USED BY GOVERNMENTAL BODIES IN
CONNECTION WITH LAND USE REGULATIONS.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002
State Revenues General Fund		
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: May increase state General Fund expenditures for local planning financial or technical assistance.		
Effective Date: 90 days after adjournment unless a referendum petition is filed.		
Appropriation Summary for FY 2000-2001: None.		
Local Government Impact: May increase local government expenditures to coordinate planning and zoning regulations.		

Summary of Legislation

This bill expresses the will of the General Assembly that county planning and building regulations, and municipal planning and zoning regulations should be coordinated with those of any adjacent county, municipality, region, or other political subdivision to eliminate conflicts or inconsistencies and to assure the compatibility of the regulations among the subdivisions. The bill requires the regulations, to the greatest extent possible, to:

- promote consistent treatment of similarly-situated applicants;
- facilitate a timely review;
- encourage in-fill development through the use of specific incentives;
- encourage a balance between the number of jobs and housing; and
- be reviewed on an on-going basis.

DRAFT

Bill B

State Expenditures

The Department of Local Affairs currently provides financial and technical assistance to local governments for planning efforts. This bill may increase the number of requests to the department for assistance in the event any local governments elect to coordinate planning regulations. The amount of any additional associated costs to implement the provisions of this bill is dependent upon the number of additional requests and the extent to which the department is requested to provide assistance. The department has not estimated the amount of any potential cost increase. This fiscal note assumes the potential cost increase may be significant, but cannot assess whether those costs can be covered within existing resources.

Local Government Impact

There are 63 counties, 269 municipalities, and approximately 1,400 special districts in Colorado. This bill encourages all adjacent local governments to coordinate planning and zoning regulations to eliminate conflicts or inconsistencies, and to assure the compatibility of the regulations among the adjacent entities. The bill also encourages those entities to evaluate new issues regarding demonstrating a fair balance between the number of new jobs and houses, encouraging in-fill development, and promoting consistent treatment of similar applicants.

This fiscal note assumes that any local government that elects to coordinate planning regulations will incur additional administrative costs to implement the provisions of this bill. The amount of those costs is dependent upon the extent to which each local government is required to contribute necessary resources to the coordination process. The amounts of any additional costs have not been estimated. This fiscal note cannot assess whether those costs can be covered within existing resources.

State Appropriations

No new state appropriations will be required for FY 2000-01.

Departments Contacted

Local Affairs

Bill C

BY SENATOR Hillman;
also REPRESENTATIVES Stengel and Witwer.

A BILL FOR AN ACT

CONCERNING THE ACQUISITION OF DEVELOPMENT RIGHTS BY LOCAL
GOVERNMENTAL AUTHORITIES.

Bill Summary

"County & Muni Development Rights"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. Authorizes counties and municipalities to acquire, by purchase or other means, development rights to preserve open space or agricultural land within their boundaries for public use and enjoyment. Specifies the nature of the interests acquired and retained in connection with such development rights and the manner by which such rights are to be created. Specifies that such development rights are perpetual unless terminated upon approval of the voters of the county or municipality that acquired such right. Prohibits such rights from being assigned or otherwise transferred.

Directs that instruments conveying such development rights are to be recorded. Clarifies that the acquisition of the development rights shall not impair conflicting interests in real property or the ability of private parties to transfer development rights otherwise permissible. Specifies that nothing shall be construed to restrict in any manner the methods and funds otherwise available to the county or municipality to finance the purchase or other acquisition of development rights.

Defines terms.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 30-11-107 (1), Colorado Revised Statutes, is amended
BY THE ADDITION OF A NEW PARAGRAPH to read:

30-11-107. Powers of the board. (1) The board of county commissioners of each county has power at any meeting:

(hh) TO ACQUIRE, BY PURCHASE, GIFT, DEVISE, BEQUEST, GRANT, LEASE, EXCHANGE, OR OTHERWISE, THE FEE SIMPLE OR ANY LESSER INTEREST, DEVELOPMENT RIGHT, EASEMENT, COVENANT, OR OTHER CONTRACTUAL RIGHT NECESSARY TO PRESERVE OPEN SPACE OR AGRICULTURAL LAND PURSUANT TO THE PROVISIONS OF ARTICLE 30.7 OF TITLE 38, C.R.S.

SECTION 2. 31-15-101 (1), Colorado Revised Statutes, is amended
BY THE ADDITION OF A NEW PARAGRAPH to read:

31-15-101. Municipalities bodies politic - powers.

(1) Municipalities:

(g) MAY ACQUIRE, BY PURCHASE, GIFT, DEVISE, BEQUEST, GRANT, LEASE, EXCHANGE, OR OTHERWISE, THE FEE SIMPLE OR ANY LESSER INTEREST, DEVELOPMENT RIGHT, EASEMENT, COVENANT, OR OTHER CONTRACTUAL RIGHT NECESSARY TO PRESERVE OPEN SPACE OR AGRICULTURAL LAND PURSUANT TO THE PROVISIONS OF ARTICLE 30.7 OF TITLE 38, C.R.S.

SECTION 3. Title 38, Colorado Revised Statutes, is amended BY
THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 30.7

County and Municipal Development Rights

38-30.7-101. Legislative declaration. THE GENERAL ASSEMBLY FINDS AND DECLARES THAT URBAN DEVELOPMENT IS ENCROACHING UPON, OR ELIMINATING, NUMEROUS OPEN AREAS AND SPACES OF VARIED SIZE AND

CHARACTER, INCLUDING MANY DEVOTED TO AGRICULTURE AND OTHER PRODUCTIVE ACTIVITIES, AND MANY OTHERS HAVING SIGNIFICANT RECREATIONAL, SOCIAL, SCENIC, OR AESTHETIC VALUES. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT SUCH AREAS AND SPACES, IF PRESERVED AND MAINTAINED IN THEIR PRESENT OPEN CONDITION, WILL CONSTITUTE IMPORTANT ASSETS TO EXISTING AND FUTURE URBAN DEVELOPMENT AND, AT THE SAME TIME, WILL CONTINUE TO CONTRIBUTE TO THE WELFARE AND WELL-BEING OF THE CITIZENS OF THE STATE AS A WHOLE. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT IT IS IN THE PUBLIC INTEREST TO ALLOW COUNTIES AND MUNICIPALITIES TO ACQUIRE DEVELOPMENT RIGHTS AS A MEANS WHEREBY SUCH OPEN SPACES AND AGRICULTURAL LANDS MAY BE PRESERVED AND MAINTAINED FOR FUTURE GENERATIONS WHILE RETAINING OWNERSHIP OF THE MEANS OF PRODUCTION IN THE PRIVATE SECTOR.

38-30.7-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGRICULTURAL LAND" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-1-102 (1.6), C.R.S.

(2) "DEVELOPMENT RIGHT" MEANS ANY FEE SIMPLE OR LESSER INTEREST, DEVELOPMENT RIGHT, EASEMENT, COVENANT, OR OTHER CONTRACTUAL RIGHT NECESSARY TO PROTECT, RESERVE, MAINTAIN, IMPROVE, RESTORE, LIMIT THE FUTURE USE OF, OR OTHERWISE CONSERVE OPEN SPACE OR AGRICULTURAL LAND.

(3) "OPEN SPACE" MEANS A LAND OR WATER AREA OR AIRSPACE ABOVE THE LAND OR WATER, INCLUDING IMPROVEMENTS, MAINTAINED

PREDOMINATELY IN A NATURAL, SCENIC, OR OPEN CONDITION, OR FOR WILDLIFE HABITAT, OR FOR AGRICULTURAL, HORTICULTURAL, RECREATIONAL, FOREST, OR OTHER USE OR CONDITION CONSISTENT WITH THE PROTECTION OF OPEN LAND HAVING WELL-PRESERVED ENVIRONMENTAL QUALITY OR LIFE-SUSTAINING ECOLOGICAL DIVERSITY.

38-30.7-103. Authorization to acquire open space and agricultural land through development rights. ANY COUNTY, WITH RESPECT TO UNINCORPORATED AREAS OF REAL PROPERTY WITHIN ITS BOUNDARIES CONTAINING OPEN SPACE OR AGRICULTURAL LAND, AND ANY MUNICIPALITY, WITH RESPECT TO AREAS OF REAL PROPERTY WITHIN ITS BOUNDARIES CONTAINING OPEN SPACE OR AGRICULTURAL LAND, MAY ACQUIRE, BY PURCHASE, GIFT, DEVISE, BEQUEST, GRANT, LEASE, EXCHANGE, OR OTHERWISE, EXCEPT BY EMINENT DOMAIN, ANY FORM OF DEVELOPMENT RIGHT NECESSARY TO PROTECT AND CONSERVE SUCH OPEN SPACE OR AGRICULTURAL LAND FOR PUBLIC USE OR ENJOYMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE. A MUNICIPALITY MAY ALSO ACQUIRE, BY PURCHASE, GIFT, DEVISE, BEQUEST, GRANT, LEASE, EXCHANGE, OR OTHERWISE, A DEVELOPMENT RIGHT WITH RESPECT TO AREAS OF REAL PROPERTY CONTAINING OPEN SPACE OR AGRICULTURAL LAND THAT IS OUTSIDE OF ITS MUNICIPAL BOUNDARIES WITH THE CONSENT OF ALL COUNTIES IN WHICH SUCH OPEN SPACE OR AGRICULTURAL LAND IS LOCATED.

38-30.7-104. Nature of development rights. (1) THE PARTICULAR CHARACTERISTICS OF A DEVELOPMENT RIGHT ACQUIRED BY A COUNTY OR MUNICIPALITY SHALL BE THOSE GRANTED OR SPECIFIED IN THE INSTRUMENT BY WHICH SUCH RIGHT IS ACQUIRED.

(2) A DEVELOPMENT RIGHT SHALL BE PERPETUAL UNLESS TERMINATED IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

(3) A DEVELOPMENT RIGHT SHALL NOT BE ASSIGNED OR OTHERWISE TRANSFERRED BY THE COUNTY OR MUNICIPALITY OF SUCH DEVELOPMENT RIGHT TO ANY OTHER PERSON, PARTY, OR ENTITY.

38-30.7-105. Creation of development rights. A DEVELOPMENT RIGHT MAY ONLY BE CREATED BY THE RECORD OWNER OF THE OPEN SPACE OR AGRICULTURAL LAND TO BE SUBJECT TO SUCH RIGHT BY A CONTRACT OR OTHER INSTRUMENT SPECIFICALLY EVIDENCING THE OWNER'S INTENTION TO SELL OR OTHERWISE TRANSFER SUCH DEVELOPMENT RIGHT TO A COUNTY OR MUNICIPALITY AS MAY BE AUTHORIZED BY THIS ARTICLE. THE PROVISIONS OF THIS ARTICLE SHALL NOT LIMIT IN ANY WAY THE ABILITY OF A LANDOWNER OR PRIVATE PARTY TO TRANSFER DEVELOPMENT RIGHTS IN AND TO REAL PROPERTY OTHERWISE PERMISSIBLE.

38-30.7-106. Residual interest. ALL RIGHTS, TITLE, AND INTEREST IN AND TO THE OPEN SPACE OR AGRICULTURAL LAND NOT TRANSFERRED AND CONVEYED BY THE INSTRUMENT CREATING THE DEVELOPMENT RIGHT SHALL REMAIN WITH THE RECORD OWNER OF SUCH OPEN SPACE OR AGRICULTURAL LAND, INCLUDING THE RIGHT TO ENGAGE IN ALL USES OF THE OPEN SPACE OR AGRICULTURAL LAND AFFECTED BY THE DEVELOPMENT RIGHT THAT ARE NOT INCONSISTENT WITH SUCH DEVELOPMENT RIGHT OR PROHIBITED BY THE DEVELOPMENT RIGHT OR BY LAW.

38-30.7-107. Recordation upon public records. INSTRUMENTS CREATING OR ACQUIRING DEVELOPMENT RIGHTS MUST BE RECORDED UPON THE PUBLIC RECORDS AFFECTING THE OWNERSHIP OF REAL PROPERTY IN ORDER TO

BE VALID AND SHALL BE SUBJECT TO THE LAWS RELATING TO SUCH RECORDATION.

38-30.7-108. Termination - abandonment. A DEVELOPMENT RIGHT ACQUIRED BY A COUNTY OR MUNICIPALITY MAY ONLY BE TERMINATED OR ABANDONED BY APPROVAL OF THE VOTERS OF SUCH COUNTY OR MUNICIPALITY THAT ACQUIRED SUCH RIGHT.

38-30.7-109. Other interests not impaired. NO INTEREST IN REAL PROPERTY COGNIZABLE UNDER THE STATUTES, COMMON LAW, OR CUSTOM IN EFFECT IN THIS STATE PRIOR TO THE EFFECTIVE DATE OF THIS ACT, NOR ANY LEASE OR SUBLEASE THEREOF AT ANY TIME, NOR ANY TRANSFER OF A WATER RIGHT OR ANY CHANGE OF A POINT OF DIVERSION AT ANY TIME SHALL BE IMPAIRED, INVALIDATED, OR IN ANY WAY ADVERSELY AFFECTED BY REASON OF ANY PROVISION OF THIS ARTICLE. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED SO AS TO IMPAIR THE RIGHTS OF A PUBLIC UTILITY, AS THAT TERM IS DEFINED BY SECTION 40-1-103, C.R.S., WITH RESPECT TO RIGHTS-OF-WAY, EASEMENTS, OR OTHER PROPERTY RIGHTS UPON WHICH FACILITIES, PLANTS, OR SYSTEMS OF A PUBLIC UTILITY ARE LOCATED OR ARE TO BE LOCATED.

38-30.7-110. No restrictions on funding. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT IN ANY MANNER THE METHODS AND FUNDS OTHERWISE AVAILABLE TO ANY COUNTY OR MUNICIPALITY FOR FINANCING THE PURCHASE OR OTHER ACQUISITION OF DEVELOPMENT RIGHTS IN ACCORDANCE WITH THE AUTHORITY CONFERRED BY THIS ARTICLE.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a

referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

DRAFT

Bill C

Colorado Legislative Council Staff

LOCAL
CONDITIONAL FISCAL IMPACT

No State General Fund Impact

Drafting Number: LLS 00-0347

Date: November 12, 1999

Prime Sponsor(s): Sen. Hillman
Rep. Stengel

Bill Status: Interim Committee on Development
and Growth

Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING THE ACQUISITION OF DEVELOPMENT RIGHTS BY LOCAL
GOVERNMENTAL AUTHORITIES.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002
State Revenues General Fund		
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None.		
Effective Date: 90 days after adjournment unless a referendum petition is filed.		
Appropriation Summary for FY 2000-2001: None.		
Local Government Impact: Authorizes counties and municipalities to acquire development rights.		

Summary of Legislation

This bill authorizes counties and municipalities to acquire development rights, including any fee simple or lesser interest, development right, easement, covenant, or other contractual right necessary to preserve open space or agricultural land. The bill also:

- specifies the nature of the development rights and the manner by which the record owner may create a development right;
- specifies that development rights are perpetual unless terminated upon approval of the voters of the county or municipality that acquired the right;
- prohibits development rights from being assigned or otherwise transferred;
- requires development rights to be publicly recorded;
- specifies that any existing interest in real property, lease, water right, or public utility right shall not be impaired or adversely affected; and

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Bill C

- specifies that nothing shall be construed to limit the methods or funds available to any county or municipality for acquiring development rights.

State Expenditures

The Department of Local Affairs currently provides financial and technical assistance to local governments for local planning efforts. This bill may increase local government requests for assistance. The department initially anticipates the amount of any associated administrative cost increase will be minimal and can be covered within existing resources.

Local Government Impact

The bill authorizes counties and municipalities to acquire development rights. The impact to local governments is dependent upon the number of counties and municipalities that elect to acquire development rights and the intrinsic cost of acquiring each right. Any resulting revenue or expenditure impacts have not been estimated.

State Appropriations

No new state appropriations are required for FY 2000-01.

Departments Contacted

Local Affairs

Bill D

BY REPRESENTATIVE Fairbank;
also SENATORS Sullivan and Hillman.

A BILL FOR AN ACT

CONCERNING A CREDIT AGAINST COLORADO INCOME TAX FOR THE TOTAL
AMOUNT OF THE STATE ESTATE TAX LEVIED UPON THE SHARE OF THE
GROSS ESTATE THAT IS ATTRIBUTABLE TO AGRICULTURAL ASSETS.

Bill Summary

"Tax Credit For Estate Tax On Ag Assets"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. Subject to certain limitations, provides that, for income tax years commencing on or after January 1, 2002, the total amount of the tax levied on the gross estate that is attributable to agricultural assets is credited against a resident estate's state income tax obligations. Specifies how such credit is to be calculated. Specifies that such credit is to be claimed by the resident estate or a beneficiary.

Provides that, if the credit exceeds the amount of income tax due for the taxable year, the excess amount may be carried forward as a tax credit against subsequent years' income tax liability for a period not exceeding 5 years and shall be applied first to the earliest years possible.

Requires documentation of the value of the agricultural assets for which such credit is claimed.

Defines terms.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 4 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-408. Credit for estate tax payment attributable to agricultural assets - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AGRICULTURAL ASSETS" SHALL MEAN AGRICULTURAL EQUIPMENT, AGRICULTURAL LAND, AGRICULTURAL RESIDENTIAL IMPROVEMENTS, AND LIVESTOCK, EITHER SINGLY OR IN ANY COMBINATION THEREOF.

(b) "AGRICULTURAL EQUIPMENT" HAS THE SAME MEANING AS "AGRICULTURAL EQUIPMENT WHICH IS USED ON THE FARM OR RANCH IN THE PRODUCTION OF AGRICULTURAL PRODUCTS", AS DEFINED IN SECTION 39-1-102 (1.3).

(c) "AGRICULTURAL LAND" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-1-102 (1.6).

(d) "AGRICULTURAL RESIDENTIAL IMPROVEMENTS" HAS THE SAME MEANING AS "RESIDENTIAL IMPROVEMENTS", AS DEFINED IN SECTION 39-1-102 (14.3), THAT ARE LOCATED ON AGRICULTURAL LAND.

(e) "GROSS ESTATE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-23.5-102 (9).

(f) "LIVESTOCK" HAS THE SAME MEANING AS SET FORTH IN SECTION 35-1-102 (6), C.R.S.

(g) "RESIDENT ESTATE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-22-103 (7).

(2) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2002, THERE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(b) SUCH CREDIT IS TO BE CALCULATED AS FOLLOWS:

(I) THE CALCULATION SHALL BEGIN WITH A DETERMINATION OF THE FEDERAL GROSS ESTATE VALUE OF THE AGRICULTURAL ASSETS LOCATED IN THE STATE OF COLORADO. FROM THIS SUM SHALL BE SUBTRACTED:

(A) THE AGGREGATE VALUE OF ANY MORTGAGES SECURED BY SUCH AGRICULTURAL ASSETS; AND

(B) THE FEDERAL MARITAL DEDUCTION ATTRIBUTABLE TO SUCH AGRICULTURAL ASSETS.

(II) THE NUMBER THAT RESULTS AFTER PERFORMING THE CALCULATION REQUIRED BY SUBPARAGRAPH (I) OF THIS SUBSECTION (2) SHALL BE MULTIPLIED BY THE COLORADO ESTATE TAX DUE BY SUCH ESTATE PURSUANT TO SECTION 39-23.5-103; AND

(III) THE NUMBER THAT RESULTS AFTER PERFORMING THE CALCULATION REQUIRED BY SUBPARAGRAPH (II) OF THIS SUBSECTION (2) SHALL BE DIVIDED BY THE VALUE OF THE FEDERAL TAXABLE ESTATE TO DETERMINE THE AMOUNT OF THE ALLOWABLE CREDIT.

(3) THE CREDIT CREATED PURSUANT TO THIS SECTION SHALL BE CLAIMED AS FOLLOWS:

(a) BY THE RESIDENT ESTATE; OR

(b) TO THE EXTENT NOT CLAIMED BY SUCH ESTATE, A BENEFICIARY MAY CLAIM SUCH CREDIT; EXCEPT THAT THE CREDIT CLAIMED BY SUCH BENEFICIARY SHALL NOT EXCEED FOUR AND THREE-FOURTHS PERCENT OF THE TOTAL TAXABLE INCOME PASSED THROUGH BY SUCH ESTATE TO SUCH BENEFICIARY.

(4) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE AMOUNT OF THE INCOME TAX OTHERWISE DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEAR'S INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE.

(5) ANY INCOME TAX RETURN FILED WITH THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF CLAIMING THE CREDIT ALLOWED BY THIS SECTION SHALL BE ACCOMPANIED BY COPIES OF SUCH DOCUMENTATION AS REQUIRED BY THE DEPARTMENT TO ESTABLISH THE VALUE OF THE CREDIT CLAIMED.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

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Bill D

Colorado Legislative Council Staff

**STATE
FISCAL IMPACT**

Drafting Number: LLS 00-0384

Date: November 30, 1999

Prime Sponsor(s): Rep. Fairbank
Sen. Sullivan

Bill Status: Committee on Development and
Growth in Colorado

Fiscal Analyst: Harry Zeid (303-866-4753)

TITLE: CONCERNING A CREDIT AGAINST COLORADO INCOME TAX FOR THE TOTAL AMOUNT OF THE STATE ESTATE TAX LEVIED UPON THE SHARE OF THE GROSS ESTATE THAT IS ATTRIBUTABLE TO AGRICULTURAL ASSETS.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002	FY 2002/2003
State Revenues General Fund		-\$219,000	-\$468,000
State Expenditures General Fund			
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE
Other State Impact: TABOR Impact			
Effective Date: 90 days after adjournment unless a referendum petition is filed. The income tax credit is effective for income tax years commencing on or after January 1, 2002.			
Appropriation Summary for FY 2000-2001: None			
Local Government Impact: None Identified			

Summary of Legislation

Effective for income tax years commencing on or after January 1, 2002, this bill authorizes a state income tax credit for the total amount of the state estate tax levied on the share of the gross estate that is attributable to agricultural assets. Agricultural assets are defined to mean agricultural equipment, agricultural land, agricultural residential improvements, and livestock. The income tax credit would be claimed by the resident estate, or to the extent that the credit is not claimed by the estate, the credit could be claimed by the beneficiary. The credit could be carried forward for a period not to exceed five years.

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State Revenues

Beginning with the 2002 income tax year, the bill allows estates filing on fiduciary, and beneficiaries filing on income tax returns, to claim a credit for agricultural assets in the claimant's estate. The total revenue derived from the state estate tax was \$67.1 million in FY 1998-99. This

included a small number of very large estates. In FY 1998-99, 1,797 estate tax returns were filed, including 1,045 taxable returns and 752 non-taxable returns. The Legislative Council revenue forecast for estate tax is \$65.4 million in FY 2001-02, and \$69.9 million in FY 2002-03.

The portion of state estate tax derived from agricultural assets is unknown. The Department of Revenue does not track estate tax by type of asset. Nationally, agricultural assets comprise approximately one-half of one percent of federal estate tax collections. Stocks, bonds and real estate make up the majority of assets subject to federal estate tax. Based on the relationship of total agricultural assets in Colorado versus national data, it is assumed that two-thirds of one percent of state estate tax is comprised of agricultural assets that would be subject to the income tax credit described in the bill. Based on the effective date of the credit, a six-month state General Fund revenue reduction of \$219,000 would occur in FY 2001-02 on an accrual accounting basis. On a full-year basis, the revenue reduction for FY 2002-03 is estimated to be \$468,000.

State Expenditures

State expenditures would be unaffected by the bill. The income tax credit based on the state estate tax levied on the share of the gross estate that is attributable to agricultural assets would be filed as part of the fiduciary income tax return (Form 105G) for resident estates and on the individual income tax return (Form 104CR) for beneficiaries. No programming costs would be incurred to add a line to Form 105G. Increases in data entry, microfilm requirements, and calls to the Tax Information Call Center are anticipated to be minimal, and would be absorbed within the workload of the department.

Other State Impacts

The reduced state revenues will mean a reduction of the amount of future state funds required to be refunded to taxpayers under the terms of TABOR, and less state funds will be available in the General Fund reserve. Also, Colorado taxpayers would experience an increased federal tax liability. Table 1 summarizes the net impact of this bill on these state obligations. The changes in Table 1 are changes from a base that includes continuing capital construction projects.

DRAFT

Bill D

Table 1. Additional Impact of Bill D (millions of dollars)

	FY 2000-2001	FY 2001-02	FY 2002-03
General Fund Revenue	\$0.00	-\$0.22	-\$0.47
SB 97-1 Diversion	0.00	0.00	0.00
Excess General Fund Reserve	0.00	-0.22	-0.46
Federal Income Taxes Paid by Colorado Taxpayers	0.00	0.05	0.11
TABOR Refund (from prior year's excess revenues)	0.00	0.00	-0.23

State Appropriations

The fiscal note implies that no new spending authority or appropriations are required in FY 2000-01 to implement the provisions of the bill.

Departments Contacted

Revenue Legislative Council

Bill E

BY REPRESENTATIVES Gotlieb and Zimmerman;
also SENATOR Reeves.

A BILL FOR AN ACT

CONCERNING SPECIFIC CRITERIA THAT MAY BE INCLUDED IN LOCAL
GOVERNMENT MASTER PLANS.

Bill Summary

"Master Plan Criteria"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. Establishes additional criteria that may be included in municipal, county, and regional master plans. Requires local planning commissions to conduct public hearings, after publishing notice of such hearings, prior to the adoption of master plans.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 30-28-106 (1), (2) (a), and (3) (a), Colorado Revised Statutes, are amended to read:

30-28-106. Adoption of master plan - contents. (1) It is the duty of a county planning commission to make and adopt a master plan for the physical development of the unincorporated territory of the county. THE COUNTY PLANNING COMMISSION SHALL CONDUCT PUBLIC HEARINGS, AFTER NOTICE OF SUCH PUBLIC HEARINGS HAS BEEN PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN A MANNER SUFFICIENT TO NOTIFY THE PUBLIC

OF THE TIME, PLACE, AND NATURE OF THE PUBLIC HEARING, PRIOR TO FINAL ADOPTION OF A MASTER PLAN IN ORDER TO ENCOURAGE PUBLIC PARTICIPATION IN AND AWARENESS OF THE DEVELOPMENT OF SUCH PLAN AND SHALL ACCEPT AND CONSIDER ORAL AND WRITTEN PUBLIC COMMENTS THROUGHOUT THE PROCESS OF DEVELOPING THE PLAN.

(2) (a) It is the duty of a regional planning commission to make and adopt a regional plan for the physical development of the territory within the boundaries of the region, but no such plan shall be effective within the boundaries of any incorporated municipality within the region unless such plan is adopted by the governing body of the municipality for the development of its territorial limits and under the terms of paragraph (b) of this subsection (2). THE REGIONAL PLANNING COMMISSION SHALL CONDUCT PUBLIC HEARINGS, AFTER NOTICE OF SUCH PUBLIC HEARINGS HAS BEEN PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE REGION IN A MANNER SUFFICIENT TO NOTIFY THE PUBLIC OF THE TIME, PLACE, AND NATURE OF THE PUBLIC HEARING, PRIOR TO FINAL ADOPTION OF A MASTER PLAN IN ORDER TO ENCOURAGE PUBLIC PARTICIPATION IN AND AWARENESS OF THE DEVELOPMENT OF SUCH PLAN AND SHALL ACCEPT AND CONSIDER ORAL AND WRITTEN PUBLIC COMMENTS THROUGHOUT THE PROCESS OF DEVELOPING THE PLAN.

(3) (a) The master plan of a county or region, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the county or regional planning commission's recommendations for the development of the territory covered by the plan and, AFTER CONSIDERATION OF EACH OF THE FOLLOWING, WHERE APPLICABLE OR APPROPRIATE, may include, BUT NOT BE LIMITED TO:

(I) The general location, character, and extent of EXISTING, PROPOSED, OR PROJECTED streets or roads, RIGHTS-OF-WAY, viaducts, bridges, WATERWAYS, WATERFRONTS, parkways, HIGHWAYS, MASS TRANSIT ROUTES AND CORRIDORS, AND ANY TRANSPORTATION PLAN PREPARED BY ANY METROPOLITAN PLANNING ORGANIZATION THAT COVERS ALL OR A PORTION OF THE COUNTY OR REGION AND THAT THE COUNTY OR REGION HAS RECEIVED NOTIFICATION OF OR, IF THE COUNTY OR REGION IS NOT LOCATED IN AN AREA COVERED BY A METROPOLITAN PLANNING ORGANIZATION, ANY TRANSPORTATION PLAN PREPARED BY THE DEPARTMENT OF TRANSPORTATION THAT THE COUNTY OR REGION HAS RECEIVED NOTIFICATION OF AND THAT APPLIES TO THE COUNTY OR REGION;

(II) THE LOCATION OF PUBLIC SCHOOLS, playgrounds, forests, reservations, SQUARES, parks, airports, AVIATION FIELDS, and other public ways, grounds, places, and OPEN spaces, TRAILS, WILDLIFE AREAS, AND OTHER PROTECTED AREAS;

(III) The general location and extent of public utilities, and terminals, CAPITAL FACILITIES, AND TRANSFER FACILITIES, whether publicly or privately owned, for water, light, power, sanitation, transportation, communication, heat, and other purposes, AND ANY PROPOSED OR PROJECTED NEEDS FOR CAPITAL FACILITIES AND UTILITIES, INCLUDING THE PRIORITIES, ANTICIPATED COSTS, AND FUNDING PROPOSALS FOR SUCH FACILITIES AND UTILITIES;

(IV) THE GENERAL LOCATION AND EXTENT OF AN ADEQUATE AND SUITABLE SUPPLY OF WATER AND OTHER NATURAL RESOURCES, INCLUDING CONSIDERATION OF THE ENVIRONMENTAL IMPACT OF DEVELOPMENT ON SUCH SUPPLY OF NATURAL RESOURCES;

(V) The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, MODIFICATION, or change of use of any of the foregoing public ways, RIGHTS-OF-WAY, INCLUDING THE COORDINATION OF SUCH RIGHTS-OF-WAY WITH THE RIGHTS-OF-WAY OF OTHER COUNTIES, REGIONS, OR MUNICIPALITIES, grounds, places OPEN spaces, buildings, properties, utilities, or terminals, OR NATURAL RESOURCES REFERRED TO IN SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH (a);

(VI) Methods for assuring access to sunlight APPROPRIATE CONDITIONS for solar, WIND, OR OTHER ALTERNATIVE energy devices SOURCES;

(VII) The general character, location, and extent of community centers, townsites, housing developments, whether public or private, THE EXISTING, PROPOSED, OR PROJECTED LOCATION OF RESIDENTIAL NEIGHBORHOODS AND SUFFICIENT LAND FOR FUTURE HOUSING DEVELOPMENT FOR THE EXISTING AND PROJECTED ECONOMIC AND OTHER NEEDS OF ALL CURRENT AND ANTICIPATED RESIDENTS OF THE COUNTY OR REGION, and urban conservation or redevelopment areas. IF A COUNTY OR REGION HAS ENTERED INTO A REGIONAL PLANNING AGREEMENT, SUCH AGREEMENT MAY BE INCORPORATED BY REFERENCE INTO THE MASTER PLAN.

(VIII) The general location and extent of forests, agricultural areas, flood control areas, and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, flood control, or the protection of urban development; and

(IX) A land classification and utilization program;

(X) PROJECTIONS OF POPULATION GROWTH FOR VARIOUS INCREMENTS OF TIME WITHIN THE NEXT TWENTY YEARS AND BEYOND AND PROJECTIONS OF

HOUSING NEEDS TO ACCOMMODATE THE PROJECTED POPULATION FOR VARIOUS INCREMENTS OF TIME WITHIN THE NEXT TWENTY YEARS AND BEYOND. THE COUNTY OR REGION SHALL BASE THESE PROJECTIONS UPON DATA FROM THE DEPARTMENT OF LOCAL AFFAIRS AND UPON THE COUNTY'S OR REGION'S LOCAL OBJECTIVES.

(XI) THE LOCATION OF STEEP SLOPES, GEOLOGICAL HAZARDS, ENDANGERED OR THREATENED SPECIES, WETLANDS, FLOODPLAINS, FLOODWAYS, UNSTABLE SOILS, AND WILDFIRE HAZARDS; AND

(XII) ANY ADDITIONAL ELEMENTS THAT A COUNTY OR REGION DEEMS DESIRABLE AND NECESSARY FOR A COMPLETE COMPREHENSIVE PLAN, INCLUDING, BUT NOT LIMITED TO, CONSIDERATION OF THE POTENTIAL USES OF EXISTING, PROPOSED, OR PROJECTED TECHNOLOGY IN ORDER TO ACHIEVE GREATER GOVERNMENTAL EFFICIENCY.

SECTION 2. 31-23-206 (1), Colorado Revised Statutes, is amended to read:

31-23-206. Master plan. (1) It is the duty of the commission to make and adopt a master plan for the physical development of the municipality, including any areas outside its boundaries, subject to the approval of the governmental body having jurisdiction thereof, which in the commission's judgment bear relation to the planning of such municipality. THE COMMISSION SHALL CONDUCT PUBLIC HEARINGS, AFTER NOTICE OF SUCH PUBLIC HEARINGS HAS BEEN PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY IN A MANNER SUFFICIENT TO NOTIFY THE PUBLIC OF THE TIME, PLACE, AND NATURE OF THE PUBLIC HEARING, PRIOR TO FINAL ADOPTION OF A MASTER PLAN IN ORDER TO ENCOURAGE PUBLIC PARTICIPATION IN AND

AWARENESS OF THE DEVELOPMENT OF SUCH PLAN AND SHALL ACCEPT AND CONSIDER ORAL AND WRITTEN PUBLIC COMMENTS THROUGHOUT THE PROCESS OF DEVELOPING THE PLAN. Such plan, with the accompanying maps, plats, charts, and descriptive matter, shall, AFTER CONSIDERATION OF EACH OF THE FOLLOWING, WHERE APPLICABLE OR APPROPRIATE, show the commission's recommendations for the development of said territory MUNICIPALITY AND OUTLYING AREAS, including, but not limited to:

(a) The general location, character, and extent of EXISTING, PROPOSED, OR PROJECTED streets, ROADS, RIGHTS-OF-WAY, subways bridges, waterways, waterfronts, parkways, HIGHWAYS, MASS TRANSIT ROUTES AND CORRIDORS, AND ANY TRANSPORTATION PLAN PREPARED BY ANY METROPOLITAN PLANNING ORGANIZATION THAT COVERS ALL OR A PORTION OF THE MUNICIPALITY AND THAT THE MUNICIPALITY HAS RECEIVED NOTIFICATION OF OR, IF THE MUNICIPALITY IS NOT LOCATED IN AN AREA COVERED BY A METROPOLITAN PLANNING ORGANIZATION, ANY TRANSPORTATION PLAN PREPARED BY THE DEPARTMENT OF TRANSPORTATION THAT THE MUNICIPALITY HAS RECEIVED NOTIFICATION OF AND THAT COVERS ALL OR A PORTION OF THE MUNICIPALITY;

(b) THE LOCATION OF PUBLIC SCHOOLS, playgrounds, squares, parks, AIRPORTS, aviation fields, and other public ways, grounds, and open spaces, TRAILS, WILDLIFE AREAS, AND OTHER PROTECTED AREAS;

(b) (c) The general location and extent of public utilities and terminals, CAPITAL FACILITIES, AND TRANSFER FACILITIES, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes, AND ANY PROPOSED OR PROJECTED NEEDS FOR

CAPITAL FACILITIES AND UTILITIES, INCLUDING THE PRIORITIES, ANTICIPATED COSTS, AND FUNDING PROPOSALS FOR SUCH FACILITIES AND UTILITIES;

(d) THE GENERAL LOCATION AND EXTENT OF AN ADEQUATE AND SUITABLE SUPPLY OF WATER AND OTHER NATURAL RESOURCES, INCLUDING CONSIDERATION OF THE ENVIRONMENTAL IMPACT OF DEVELOPMENT ON SUCH SUPPLY OF NATURAL RESOURCES;

(e) The ACCEPTANCE, removal, relocation, widening, narrowing, vacating, abandonment, MODIFICATION, change of use, or extension of any of the PUBLIC ways, RIGHTS-OF-WAY, INCLUDING THE COORDINATION OF SUCH RIGHTS-OF-WAY WITH THE RIGHTS-OF-WAY OF OTHER MUNICIPALITIES, COUNTIES, OR REGIONS, grounds, open spaces, buildings, property, utility, or terminals, OR NATURAL RESOURCES referred to in paragraphs (a) and (b) TO (d) of this subsection (1); and

(f) A zoning plan for the control of the height, area, bulk, location, and use of buildings and premises. Such a zoning plan may protect and assure access to ~~sunlight~~ APPROPRIATE CONDITIONS for solar, WIND, OR OTHER ALTERNATIVE energy ~~devices~~ SOURCES; however, regulations and restrictions of the height, number of stories, size of buildings and other structures, and the height and location of trees and other vegetation shall not apply to existing buildings, structures, trees, or vegetation except for new growth on such vegetation.

(g) THE GENERAL CHARACTER, LOCATION, AND EXTENT OF COMMUNITY CENTERS, HOUSING DEVELOPMENTS, WHETHER PUBLIC OR PRIVATE, THE EXISTING, PROPOSED, OR PROJECTED LOCATION OF RESIDENTIAL NEIGHBORHOODS AND SUFFICIENT LAND FOR FUTURE HOUSING DEVELOPMENT

FOR THE EXISTING AND PROJECTED ECONOMIC AND OTHER NEEDS OF ALL CURRENT AND ANTICIPATED RESIDENTS OF THE MUNICIPALITY, AND REDEVELOPMENT AREAS. IF A MUNICIPALITY HAS ENTERED INTO A REGIONAL PLANNING AGREEMENT, SUCH AGREEMENT MAY BE INCORPORATED BY REFERENCE INTO THE MASTER PLAN.

(h) A MASTER PLAN FOR THE EXTRACTION OF COMMERCIAL MINERAL DEPOSITS PURSUANT TO SECTION 34-1-304, C.R.S.;

(i) A PLAN FOR THE LOCATION AND PLACEMENT OF PUBLIC UTILITIES THAT FACILITATES THE PROVISION OF SUCH UTILITIES TO ALL EXISTING, PROPOSED, OR PROJECTED DEVELOPMENTS IN THE MUNICIPALITY;

(j) PROJECTIONS OF POPULATION GROWTH FOR VARIOUS INCREMENTS OF TIME WITHIN THE NEXT TWENTY YEARS AND BEYOND AND PROJECTIONS OF HOUSING NEEDS TO ACCOMMODATE THE PROJECTED POPULATION FOR VARIOUS INCREMENTS OF TIME WITHIN THE NEXT TWENTY YEARS AND BEYOND. THE MUNICIPALITY SHALL BASE THESE PROJECTIONS UPON DATA FROM THE DEPARTMENT OF LOCAL AFFAIRS AND UPON THE MUNICIPALITY'S LOCAL OBJECTIVES.

(k) THE LOCATION OF STEEP SLOPES, GEOLOGICAL HAZARDS, ENDANGERED OR THREATENED SPECIES, WETLANDS, FLOODPLAINS, FLOODWAYS, UNSTABLE SOILS, AND WILDFIRE HAZARDS; AND

(l) ANY ADDITIONAL ELEMENTS THAT A MUNICIPALITY DEEMS DESIRABLE AND NECESSARY FOR A COMPLETE COMPREHENSIVE PLAN, INCLUDING, BUT NOT LIMITED TO, CONSIDERATION OF THE POTENTIAL USES OF EXISTING, PROPOSED, OR PROJECTED TECHNOLOGY IN ORDER TO ACHIEVE GREATER GOVERNMENTAL EFFICIENCY.

SECTION 3. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

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Bill E

Colorado Legislative Council Staff

LOCAL
CONDITIONAL FISCAL IMPACT
No State General Fund Impact

Drafting Number: LLS 00-0337
Prime Sponsor(s): Rep. Gotlieb
Sen. Reeves

Date: November 12, 1999
Bill Status: Interim Committee on Development
and Growth
Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING SPECIFIC CRITERIA THAT MAY BE INCLUDED IN LOCAL GOVERNMENT MASTER PLANS.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002
State Revenues General Fund		
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None.		

Effective Date: 90 days after adjournment unless a referendum petition is filed.

Appropriation Summary for FY 2000-2001: None.

Local Government Impact: Some local governments may elect to adopt new procedures or revise existing procedures for public hearings and master plan development.

Summary of Legislation

This bill requires municipal, county, and regional planning commissions to conduct public hearings prior to adoption of a master plan in order to encourage public participation in development of the plan. The bill specifies certain additional criteria that may be included in a master plan regarding:

- existing or proposed waterways, highways, mass transit routes and corridors, and transportation plans prepared by any metropolitan planning organization or the Department of Transportation;
- the location of public schools, aviation fields, and trails and wildlife areas;
- the general location of existing or proposed capital facilities and any associated funding proposals;

DRAFT

Bill E

- the general location and extent of an adequate water supply and other natural resources, including consideration of the environmental impact of development on those supplies;
- a master plan for the extraction of commercial mineral deposits;
- coordination of rights-of-ways with other local governments;
- existing or proposed locations of residential neighborhoods and associated regional planning agreements;
- projections of population growth and projections of associated housing needs based upon data from the Department of Local Affairs; and
- locations of geological hazards.

State Expenditures

The Department of Local Affairs currently provides technical and financial assistance to local government planning efforts. This bill may increase the number of local government requests for such assistance. However, the department initially anticipates any associated administrative cost increase will be minimal and can be covered within existing resources.

Local Government Impact

The provisions of this bill require local governments to conduct public hearings and allows those entities to elect to adopt new criteria to be included in a master plan. This fiscal note assumes most local governments currently conduct public hearings and develop master plans. This bill may influence some local governments to elect to adopt new procedures or revise existing procedures for public hearings and master plan development. However, this fiscal note assumes any associated costs will be minimal and can be covered within existing resources.

State Appropriations

No new state appropriations are required for FY 2000-01.

Departments Contacted

Local Affairs

Bill F

BY SENATOR Reeves;
also REPRESENTATIVE Zimmerman.

A BILL FOR AN ACT

CONCERNING LOCAL GOVERNMENT MASTER PLANS FOR THE PHYSICAL
DEVELOPMENT OF TERRITORY WITHIN THE BOUNDARIES OF THE LOCAL
GOVERNMENT, AND, IN CONNECTION THEREWITH, REQUIRING
UNIFORM TERMINOLOGY IN AND ELECTRONIC ACCESS TO SUCH PLANS
AND CREATING A FUND TO DEFER THE COSTS OF PROVIDING
ELECTRONIC ACCESS.

Bill Summary

"Local Govt Master Plans"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. Requires the director of the division of planning in the department of local affairs to provide public access through the internet or a successor on-line computer system to master plans for the physical development of any territory within the boundaries of any county, region, or municipality adopted by any county, regional, or municipal planning commission. Authorizes the director to determine, by rule, the fees to be charged and the procedures to be used for such access. Authorizes the director to charge fees that offset the costs of providing such access and allows the director to adjust the amount of such fees under certain circumstances. Establishes the local planning electronic access fund into which such fees are to be deposited.

Requires county, regional, and municipal planning commissions to utilize, to the extent possible, uniform terminology in master plans adopted, amended, revised, or updated for any county, region, or municipality. Requires

county, regional, and municipal planning commissions to make county, regional, and municipal master plans, including amended, revised, or updated plans, available to the division of planning in the department of local affairs for purposes of providing public access to such plans through the internet or a successor on-line computer system.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-32-202 (3), Colorado Revised Statutes, is amended
BY THE ADDITION OF A NEW PARAGRAPH to read:

24-32-202. Division of planning - creation. (3) The director of the
division of planning shall:

(e) PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION OF
THE PROVISIONS OF SECTION 24-32-208, INCLUDING BUT NOT LIMITED TO THE
AMOUNT OF FEES TO BE CHARGED AND THE PROCEDURES FOR ESTABLISHING
ELECTRONIC READ-ONLY ACCESS TO COUNTY, REGIONAL, AND MUNICIPAL
MASTER PLANS PURSUANT TO SAID SECTION.

SECTION 2. 24-32-203 (1), Colorado Revised Statutes, is amended
BY THE ADDITION OF A NEW PARAGRAPH to read:

24-32-203. Duties of the division of planning. (1) The division of
planning shall:

(e) PROVIDE ELECTRONIC READ-ONLY ACCESS TO COUNTY, REGIONAL,
AND MUNICIPAL MASTER PLANS IN ACCORDANCE WITH SECTION 24-32-208.

SECTION 3. Part 2 of article 32 of title 24, Colorado Revised
Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-32-208. Electronic access to information - fund. (1) NO LATER
THAN DECEMBER 31, 2000, THE DIRECTOR OF THE DIVISION OF PLANNING SHALL
PROVIDE ELECTRONIC READ-ONLY ACCESS THROUGH THE INTERNET OR A

SUCCESSOR ON-LINE COMPUTER SYSTEM TO THE FOLLOWING PUBLIC INFORMATION THAT IS OTHERWISE AVAILABLE FOR PHYSICAL INSPECTION AND COPYING BY PERSONS AT THE OFFICES OF LOCAL GOVERNMENTS:

(a) ANY MASTER PLAN FOR THE PHYSICAL DEVELOPMENT OF THE UNINCORPORATED TERRITORY OF A COUNTY ADOPTED BY A COUNTY PLANNING COMMISSION IN ACCORDANCE WITH SECTION 30-28-106 (1) AND (3), C.R.S.;

(b) ANY REGIONAL PLAN FOR THE PHYSICAL DEVELOPMENT OF THE TERRITORY WITHIN THE BOUNDARIES OF A REGION ADOPTED BY A REGIONAL PLANNING COMMISSION IN ACCORDANCE WITH SECTION 30-28-106 (2) AND (3), C.R.S.;

(c) ANY MASTER PLAN FOR THE PHYSICAL DEVELOPMENT OF A MUNICIPALITY OR THE AREAS OUTSIDE THE BOUNDARIES OF A MUNICIPALITY ADOPTED BY A MUNICIPAL PLANNING COMMISSION IN ACCORDANCE WITH SECTION 31-23-206, C.R.S.

(2) THE DIRECTOR OF THE DIVISION OF PLANNING SHALL DETERMINE THE FEES CHARGED AND THE PROCEDURES TO BE USED FOR ELECTRONIC ACCESS UNDER THIS SECTION. ANY FEES CHARGED SHALL BE AT A LEVEL THAT OFFSETS THE COSTS TO THE DIRECTOR OF PROVIDING SUCH ELECTRONIC ACCESS. NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (2) TO THE CONTRARY, THE DIRECTOR BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY REDUCE THE AMOUNT OF SAID FEES IF NECESSARY PURSUANT TO SECTION 24-75-402 (3) TO REDUCE THE UNCOMMITTED RESERVES OF THE ELECTRONIC ACCESS FUND CREATED BY SUBSECTION (3) OF THIS SECTION TO WHICH ALL OR ANY PORTION OF THE FEES ARE CREDITED. AFTER THE UNCOMMITTED RESERVES OF THE ELECTRONIC ACCESS FUND ARE SUFFICIENTLY REDUCED, THE

DIRECTOR BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY INCREASE THE AMOUNT OF THE FEES PURSUANT TO SECTION 24-75-402 (4).

(3) THERE IS HEREBY CREATED IN THE STATE TREASURY A FUND TO BE KNOWN AS THE LOCAL PLANNING ELECTRONIC ACCESS FUND, WHICH SHALL BE ADMINISTERED BY THE DIRECTOR OF THE DIVISION OF PLANNING. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF LOCAL AFFAIRS FOR ALLOCATION TO THE DIVISION OF PLANNING FOR THE PURPOSES OF THIS SECTION. ALL FEES COLLECTED BY THE DIRECTOR PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE FUND. ALL INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND.

SECTION 4. 30-28-106 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

30-28-106. Adoption of master plan - contents. (3) (h) TO THE EXTENT POSSIBLE, ALL COUNTY AND REGIONAL PLANNING COMMISSIONS SHALL USE UNIFORM TERMINOLOGY IN ANY MASTER PLAN ADOPTED, AMENDED, REVISED, OR UPDATED PURSUANT TO THIS SECTION IN ORDER TO FACILITATE EASE OF UNDERSTANDING OF SUCH PLANS BY THE PUBLIC. NOTHING IN THIS PARAGRAPH (h) SHALL REQUIRE ANY COUNTY OR REGIONAL PLANNING COMMISSION TO REVISE A MASTER PLAN TO COMPLY WITH THIS PARAGRAPH (h) UNLESS SUCH MASTER PLAN IS BEING REVISED OR UPDATED FOR OTHER REASONS.

(i) ANY COUNTY OR REGIONAL MASTER PLAN ADOPTED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE BY THE COUNTY OR REGIONAL PLANNING COMMISSION TO THE DIVISION OF PLANNING WITHIN THE DEPARTMENT OF LOCAL AFFAIRS IN ORDER TO PROVIDE ELECTRONIC READ-ONLY ACCESS THROUGH THE INTERNET OR A SUCCESSOR ON-LINE COMPUTER SYSTEM OF SUCH MASTER PLAN IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-32-208, C.R.S. EACH COUNTY OR REGIONAL PLANNING COMMISSION SHALL PROVIDE UPDATES TO THE DIVISION WHENEVER SUCH MASTER PLAN IS AMENDED, REVISED, OR UPDATED.

SECTION 5. 31-23-206, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

31-23-206. Master plan. (4) TO THE EXTENT POSSIBLE, ALL MUNICIPAL PLANNING COMMISSIONS SHALL USE UNIFORM TERMINOLOGY IN ANY MASTER PLAN ADOPTED PURSUANT TO THIS SECTION IN ORDER TO FACILITATE EASE OF UNDERSTANDING OF SUCH PLANS BY THE PUBLIC. NOTHING IN THIS SUBSECTION (4) SHALL REQUIRE ANY COUNTY OR REGIONAL PLANNING COMMISSION TO REVISE A MASTER PLAN TO COMPLY WITH THIS SUBSECTION (4) UNLESS SUCH MASTER PLAN IS BEING AMENDED, REVISED, OR UPDATED FOR OTHER REASONS.

(5) ANY MUNICIPAL MASTER PLAN ADOPTED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE BY THE MUNICIPAL PLANNING COMMISSION TO THE DIVISION OF PLANNING WITHIN THE DEPARTMENT OF LOCAL AFFAIRS IN ORDER TO PROVIDE ELECTRONIC READ-ONLY ACCESS THROUGH THE INTERNET OR A SUCCESSOR ON-LINE COMPUTER SYSTEM OF SUCH MASTER PLAN IN ACCORDANCE WITH THE PROVISIONS OF SECTION

24-32-208, C.R.S. EACH MUNICIPAL PLANNING COMMISSION SHALL PROVIDE UPDATES TO THE DIVISION WHENEVER SUCH MASTER PLAN IS AMENDED, REVISED, OR UPDATED.

SECTION 6. Effective date. This act shall take effect July 1, 2000.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill F

Colorado Legislative Council Staff

**STATE and LOCAL
FISCAL IMPACT**

No State General Fund Impact

Drafting Number: LLS 00-0353

Date: November 30, 1999

Prime Sponsor(s): Sen. Reeves

Bill Status: Committee on Development and
Growth in Colorado

Rep. Zimmerman

Fiscal Analyst: Harry Zeid (303-866-4753)

TITLE: CONCERNING LOCAL GOVERNMENT MASTER PLANS FOR THE PHYSICAL DEVELOPMENT OF TERRITORY WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT, AND, IN CONNECTION THEREWITH, REQUIRING UNIFORM TERMINOLOGY IN AND ELECTRONIC ACCESS TO SUCH PLANS AND CREATING A FUND TO DEFER THE COSTS OF PROVIDING ELECTRONIC ACCESS.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002
State Revenues		
General Fund		
Cash Fund	\$10,000	\$10,000
State Expenditures		
General Fund		
Cash Fund	\$10,000	\$10,000
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: TABOR Impact		
Effective Date: July 1, 2000		
Appropriation Summary for FY 2000-2001: \$10,000 cash fund spending authority for the Local Planning Electronic Access Fund required for the Department of Local Affairs.		
Local Government Impact: To the extent possible, local governments will be required to use uniform terminology in any master plan adopted, amended, revised, or updated. Any county, regional, or municipal master plan adopted would be made available to the Division of Planning in the Department of Local Affairs.		

Summary of Legislation

This bill requires the Director of the Division of Planning in the Department of Local Affairs (DOLA) to provide electronic read-only public access through the internet or a successor on-line computer system to master plans for the physical development of any unincorporated territory of a county, region, or municipality that is adopted by a county, regional planning commission, or municipal planning commission. Access would be provided no later than December 31, 2000.

DRAFT

Bill F

The bill provides that a fee may be charged for on-line access. The fee would be set at a level that offsets the costs of providing the electronic access. Revenues collected would be deposited in the Local Planning Electronic Access Fund, which would be created in the State Treasury. Moneys in the fund would be subject to annual appropriation by the General Assembly to the Department of Local Affairs for allocation to the Division of Planning. Income derived from the deposit and investment of moneys in the fund would be credited to the fund, and would not revert to the state General Fund.

The bill also requires, to the extent possible, that all county and regional planning commissions use uniform terminology in any master plan adopted, amended, revised, or updated. This would be done in order to facilitate the ease of understanding the plans by the public.

The bill will require a minimal level of expenditures by the Department of Local Affairs, and will generate revenues to the Local Planning Electronic Access Cash Fund. Therefore, the bill is assessed as having state fiscal impact. Local fiscal impact will be minimal.

State Revenues

The bill provides that the Division of Planning in the Department of Local Affairs may charge a fee for on-line access to the data base of master plans. The fee would be set at a level that offsets the costs of providing the electronic access. Revenues collected would be deposited in the Local Planning Electronic Access Fund. It is anticipated that the fee level will be set at the appropriate level to cover the direct and indirect costs to fund the project. The DOLA does not anticipate costs to exceed \$10,000 annually.

State Expenditures

The Department of Local Affairs will be required to develop a fee structure, as well as establish procedures to implement the electronic assess to county, regional, and municipal master plans. Total annual expenditures required of the DOLA are anticipated to be under \$10,000.

Local Government Impact

The Department of Local Affairs assumes that local governments (including 63 counties, 269 municipalities, and several regional planning commissions) will provide internet compatible copies of master plans to the department. The department believes that this task can be accomplished by most local governments quickly and easily. However, some jurisdictions may not currently have immediate access to the appropriate digitizing technology. Local government costs are anticipated to be minimal.

DRAFT

Bill F

To the extent possible, local governments will be required to use uniform terminology in any master plan adopted, amended, revised, or updated. Any county, regional, or municipal master plan adopted would be made available to the Division of Planning in the Department of Local Affairs.

State Appropriations

The fiscal note implies that the Department of Local Affairs would require cash fund spending authority in the amount of \$10,000 in order to implement the provisions of the bill.

Departments Contacted

Local Affairs

State Treasury

Omissions and Technical or Mechanical Defects

The bill establishes a new program within the Division of Planning in the Department of Local Affairs. While the Division of Planning is statutorily authorized, the Department of Local Affairs does not presently have an active Division of Planning.

Bill G

BY REPRESENTATIVES Gottlieb, Plant, Witwer, and Zimmerman

A BILL FOR AN ACT

CONCERNING THE USE OF ALTERNATIVE DISPUTE RESOLUTION METHODS TO
RESOLVE LAND USE DISPUTES BETWEEN LOCAL GOVERNMENTAL
ENTITIES.

Bill Summary

"Resolving Local Land Use Disputes"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. Requires the division of planning to maintain a list of individuals and organizations that are available to assist in resolving land use disputes between local governmental entities.

Provides a method for allowing specified local governments to engage in mediation and arbitration of land use disputes. Provides suggested methods for establishing deadlines and procedures, selecting mediators or arbitrators, and to conducting such arbitration or mediation.

If a local government refuses to engage in arbitration or mediation when requested by another local government to agree to engage in mediation or arbitration to resolve a land use dispute, the requesting local governmental entity may file a notice of such refusal with the division of planning. Requires the director of the division of planning to determine the validity of the notice. Requires the director of the division of planning, upon making a determination that the notice is valid, to advise the refusing local governmental entity that state agencies will be notified if it does not enter into mediation or arbitration. Notification of state agencies will include the request to withhold consideration of the refusing governmental entity from receiving discretionary services or funding or agency grants.

Defines terms.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 2 of article 32 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-32-203.5. Local government land use dispute resolution - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

(b) "DIVISION" MEANS THE DIVISION OF PLANNING CREATED IN SECTION 24-32-202.

(c) "FAILURE TO ENGAGE IN MEDIATION OR ARBITRATION" INCLUDES, BUT IS NOT LIMITED TO, A FAILURE TO:

(I) AGREE EITHER TO ENGAGE IN MEDIATION OR ARBITRATION OF A LAND USE DISPUTE;

(II) AGREE TO AND USE A REASONABLE METHOD FOR SELECTING A MEDIATOR OR ARBITRATOR OR A PANEL OF MEDIATORS OR ARBITRATORS;

(III) AGREE TO AND FOLLOW REASONABLE PROCEDURES FOR CONDUCTING THE ARBITRATION OR MEDIATION;

(IV) AGREE TO AND MEET A REASONABLE DEADLINE FOR COMPLETING THE MEDIATION OR ARBITRATION; OR

(V) PREPARE FOR, ATTEND, OR OTHERWISE REASONABLY ENGAGE IN THE PROCESS OF MEDIATING OR ARBITRATING A LAND USE DISPUTE.

(d) "LAND USE DISPUTE" MEANS AN EXISTING OR IMPENDING DISAGREEMENT BETWEEN TWO OR MORE LOCAL GOVERNMENTAL ENTITIES CONCERNING A PLANNING, ZONING, SUBDIVISION, ANNEXATION,

TRANSPORTATION, STREET ACCESS, OR OTHER LAND USE DECISION OR GROUP OF RELATED DECISIONS.

(e) "LOCAL GOVERNMENTAL ENTITY" MEANS A CITY, COUNTY, CITY AND COUNTY, OR TOWN IN THE STATE DIRECTLY AFFECTED BY A LAND USE DISPUTE.

(2) THE DIVISION SHALL MAINTAIN A LIST OF MEDIATORS AND ARBITRATORS THAT ARE AVAILABLE TO ASSIST IN RESOLVING LAND USE DISPUTES ARISING BETWEEN LOCAL GOVERNMENTAL ENTITIES. SUCH LIST SHALL INCLUDE ONLY THOSE PERSONS OR ORGANIZATIONS THE DIVISION DETERMINES HAVE PROFESSIONAL EXPERTISE AND SKILLS IN LAND USE, PLANNING, ZONING, SUBDIVISION, ANNEXATION, REAL ESTATE, PUBLIC ADMINISTRATION, MEDIATION, ARBITRATION, OR OTHER RELATED DISCIPLINES. SUCH LIST SHALL BE MADE AVAILABLE TO GOVERNMENTAL ENTITIES AND TO THE PUBLIC FOR THE PURPOSE OF FACILITATING THE RESOLUTION OF DISAGREEMENTS ARISING FROM LAND USE DECISIONS.

(3) A LOCAL GOVERNMENTAL ENTITY MAY SUBMIT A NOTICE TO ANOTHER LOCAL GOVERNMENTAL ENTITY REQUESTING ITS PARTICIPATION IN MEDIATION OR ARBITRATION TO RESOLVE A LAND USE DISPUTE THAT AFFECTS THE ENTITIES. SUCH REQUEST MAY INCLUDE A DEADLINE OF NOT LESS THAN THIRTY DAYS FROM THE DATE OF THE REQUEST TO MUTUALLY AGREE TO MEDIATE OR TO ARBITRATE THE DISPUTE. IF THE PARTIES MUTUALLY AGREE TO MEDIATE OR ARBITRATE THE DISPUTE, THEY MAY FURTHER MUTUALLY AGREE UPON THE FOLLOWING:

(a) A METHOD FOR SELECTING A MEDIATOR OR ARBITRATOR OR A PANEL OF MEDIATORS OR ARBITRATORS;

(b) THE PROCEDURES FOR CONDUCTING THE MEDIATION OR ARBITRATION; AND

(c) A DEADLINE NOT TO EXCEED NINETY DAYS FROM THE DATE OF THE WRITTEN REQUEST FOR COMPLETING THE MEDIATION OR ARBITRATION.

(4) IN THE EVENT THAT A LOCAL GOVERNMENTAL ENTITY RECEIVES A REQUEST TO ENTER INTO MEDIATION OR ARBITRATION OF A LAND USE DISPUTE PURSUANT TO SUBSECTION (3) OF THIS SECTION AND FAILS TO RESPOND TO THE REQUEST OR TO ENGAGE IN MEDIATION OR ARBITRATION OF THE DISPUTE, THE LOCAL GOVERNMENTAL ENTITY THAT MADE THE REQUEST MAY FILE A NOTICE OF SUCH FAILURE WITH THE DIVISION. THE NOTICE SHALL SPECIFY THE FOLLOWING:

(a) THE NATURE AND FACTUAL BACKGROUND OF THE LAND USE DISPUTE AND THE BASIS FOR ASSERTING A FAILURE TO MEDIATE OR ARBITRATE THE DISPUTE;

(b) A STATEMENT INDICATING WHY IT WOULD BE APPROPRIATE TO MEDIATE OR ARBITRATE THE DISPUTE; AND

(c) WHAT, IF ANY, INTERESTS THE STATE HAS IN HAVING THE DISPUTE RESOLVED BY MEDIATION OR ARBITRATION.

(5) THE LOCAL GOVERNMENTAL ENTITY THAT HAS ALLEGEDLY FAILED TO MEDIATE OR ARBITRATE A LAND USE DISPUTE SHALL HAVE THIRTY DAYS FROM THE DATE OF THE NOTICE OF FAILURE TO MEDIATE OR ARBITRATE A LAND USE DISPUTE TO FILE A RESPONSE WITH THE DIVISION. AFTER CONSIDERING THE NOTICE, ANY RESPONSE, AND ANY OTHER INFORMATION THE DIRECTOR DEEMS APPROPRIATE, THE DIRECTOR SHALL MAKE FINDINGS WITH RESPECT TO THE FOLLOWING:

(a) WHETHER THE LOCAL GOVERNMENTAL ENTITY HAS GROUNDS ON WHICH TO REFUSE TO ENTER ARBITRATION OR MEDIATION OF THE LAND USE DISPUTE;

(b) WHETHER ARBITRATION OR MEDIATION WOULD BE AN APPROPRIATE RESPONSE TO RESOLUTION OF THE LAND USE DISPUTE; AND

(c) WHETHER THE STATE HAS AN INTEREST IN HAVING THE LAND USE DISPUTE RESOLVED BY MEDIATION OR ARBITRATION.

(6) PURSUANT TO SUBSECTION (5) OF THIS SECTION, IF THE DIRECTOR FINDS THAT A LOCAL GOVERNMENTAL ENTITY FAILED TO ENGAGE IN THE MEDIATION OR ARBITRATION OF A LAND USE DISPUTE, FINDS THAT IT WOULD BE APPROPRIATE TO ENGAGE IN THE MEDIATION OR ARBITRATION OF THE DISPUTE, AND FINDS THAT THE STATE HAS AN INTEREST IN HAVING THE LAND USE DISPUTE RESOLVED BY MEDIATION OR ARBITRATION, THE DIRECTOR SHALL PROVIDE HIS OR HER FINDINGS TO THE LOCAL GOVERNMENTAL ENTITIES AND ADVISE THE LOCAL GOVERNMENTAL ENTITIES IN WRITING TO ENGAGE IN THE MEDIATION OR ARBITRATION OF THE DISPUTE WITHIN SIXTY DAYS AFTER THE DATE OF SUCH NOTICE. THE DIRECTOR SHALL FURTHER ADVISE SUCH LOCAL GOVERNMENTAL ENTITIES THAT, IF THE REFUSING LOCAL GOVERNMENTAL ENTITY FAILS TO ENGAGE IN MEDIATION OR ARBITRATION WITHIN SUCH TIME PERIOD, THE DIRECTOR WILL PROVIDE A NOTICE TO STATE AGENCIES CONCERNING THE FAILURE TO ENGAGE IN MEDIATION OR ARBITRATION OF THE DISPUTE PURSUANT TO SUBSECTION (7) OF THIS SECTION.

(7) IF THE DIRECTOR PROVIDES A WRITTEN ADVISEMENT PURSUANT TO SUBSECTION (6) OF THIS SECTION TO A LOCAL GOVERNMENTAL ENTITY TO ENGAGE IN THE MEDIATION OR ARBITRATION OF A LAND USE DISPUTE AND THE

DIRECTOR DOES NOT RECEIVE WRITTEN CONFIRMATION THAT SUCH MEDIATION OR ARBITRATION HAS OCCURRED WITHIN SIXTY DAYS AFTER THE DATE OF SUCH WRITTEN ADVISEMENT, THE DIRECTOR SHALL PROVIDE A NOTICE TO STATE AGENCIES ADVISING THEM THAT THE LOCAL GOVERNMENTAL ENTITY HAS FAILED TO ENGAGE IN THE MEDIATION OR ARBITRATION OF A LAND USE DISPUTE. SUCH NOTICE SHALL INCLUDE THE FINDINGS OF THE DIRECTOR MADE PURSUANT TO SUBSECTION (5) OF THIS SECTION. STATE AGENCIES SHALL TAKE INTO CONSIDERATION THE FAILURE OF THE LOCAL GOVERNMENTAL ENTITY TO ENGAGE IN THE MEDIATION OR ARBITRATION OF THE DISPUTE WHEN MAKING POLICY DECISIONS OR CONSIDERING THE EXPENDITURE OF DISCRETIONARY MONEYS FOR PROJECTS OR SERVICES AFFECTING THE LOCAL GOVERNMENTAL ENTITY. STATE AGENCIES SHALL HAVE THE AUTHORITY TO MAKE POLICIES OR REDUCE THE EXPENDITURES OF SUCH MONEYS FOR SUCH PROJECTS OR SERVICES BASED UPON THE FAILURE OF THE LOCAL GOVERNMENT TO MEDIATE OR ARBITRATE A LAND USE DISPUTE.

(8) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT, DELAY, OR OTHERWISE INTERFERE WITH THE ABILITY OF A LOCAL GOVERNMENT TO BRING LEGAL OR OTHER ACTION TO ENFORCE ITS LEGAL RIGHTS.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if

approved by the people, shall take effect on the date of the official declaration
of the vote thereon by proclamation of the governor.

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Bill G

Colorado Legislative Council Staff

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 00-0354

Date: November 12, 1999

Prime Sponsor(s): Rep. Gotlieb

Bill Status: Interim Committee on Development
and Growth

Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING THE USE OF ALTERNATIVE DISPUTE RESOLUTION METHODS TO
RESOLVE LAND USE DISPUTES BETWEEN LOCAL GOVERNMENTAL ENTITIES.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002
State Revenues General Fund		
State Expenditures General Fund	\$19,671	\$19,671
FTE Position Change	0.4 FTE	0.4 FTE
Other State Impact: State agency discretionary money to local government projects may be reduced.		
Effective Date: 90 days after adjournment unless a referendum petition is filed.		
Appropriation Summary for FY 2000-2001: Department of Local Affairs - General Fund - 0.4 FTE and \$19,671		
Local Government Impact: Local governments may incur additional expenses for dispute mediation, and may lose discretionary state moneys for local projects.		

Summary of Legislation

This bill requires the Division of Planning in the Department of Local Affairs to maintain a list of mediators and arbitrators available to the public and local governments to assist in resolving land use disputes arising between local governments. The list is to include only those persons and organizations the division determines have professional expertise and skills in land use, planning, zoning, and related disciplines.

The bill allows a local government to submit notice to another local government requesting participation in mediation or arbitration to resolve a land dispute. The bill specifies a deadline that may be included in the request, and in the event the local governments mutually agree to mediate, the bill specifies terms and conditions upon which they may mutually agree.

The bill specifies certain procedures for filing notice in the event a local government receives a request to enter into mediation and fails to respond or elects to not engage in mediation. The bill requires the division to make findings and recommendations based upon the appropriateness of the

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Bill G

requested mediation and whether the state has an interest in having the land use dispute resolved. In the event the division advises the local governments to mediate, and if the refusing local government fails to engage in mediation within a certain time frame, the division is required to advise state agencies concerning the failure to mediate. State agencies are required to consider the failure to mediate when making policy decisions or considering the expenditure of discretionary moneys for projects or services affecting the local government. State agencies are granted the authority to make policies or reduce such expenditures based upon the failure of the local government to mediate.

State Expenditures

Department of Local Affairs. This bill requires the Department of Local Affairs to establish and administer a listing of qualified mediators and arbitrators to assist in resolving land use disputes among local governments. To accomplish this, the department will be required to conduct a Request for Qualifications, evaluate all responses, and establish a data base of qualified persons or organizations. The department may also be required to make findings of fact in any case where a local government has refused to mediate. The bill requires the department to notify state agencies of any findings. The department's expenditures to support these activities are based upon the following assumptions:

- that 100 firms will respond, and that each response will require approximately four hours of research and administration for a total of 400 hours of personal services;
- that twenty-four mediation cases will be brought before the department each year, and that each case will require sixteen hours of fact finding for a total of 384 hours of personal services.

Table 1 provides a summary of the department's General Fund expenditures for FY 2000-01 and FY 2001-02 to support the provisions of this bill

Department of Local Affairs - Dispute Mediation General Fund Expenditures		
	FY 2000/2001	FY 2001/2002
Personal Services Gen Professional IV PERA/Med Total	0.4 FTE - \$16,545 2,126 \$18,671	0.4 FTE - \$16,545 2,126 \$18,671
Operating Expenses	\$1,000	\$1,000
Total Expenses	0.4 FTE - \$19,671	0.4 FTE - \$19,671

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Bill G

Other state agencies. State agencies are required to consider the failure to mediate when considering the expenditure of discretionary moneys for projects or services affecting the local government. State agencies are granted the authority to reduce such expenditures based upon the failure of the local government to mediate. This fiscal note cannot assess the amount of any such expenditure reductions.

Expenditures Not Included

Pursuant to the Joint Budget Committee's budget policies, the following expenditures have not been included in this fiscal note:

- health and life insurance costs of \$884.40;
- short-term disability costs of \$35;
- inflationary cost factors;
- leased space; and
- indirect costs.

Local Government Impact

This fiscal note assumes any local government that elects to participate in mediation or arbitration will bear any associated costs. The amount of those costs is dependent upon the number and extent of mediation actions, and has not been estimated. This fiscal note cannot ascertain whether these costs, if any, will be greater than or less than any costs local governments may currently incur in civil litigation or dispute resolution.

Any local government that refuses to mediate a land use dispute may risk the loss of discretionary state moneys for projects or services. The amount of these potential losses has not been estimated.

State Appropriations

This fiscal note would imply the Department of Local Affairs will require a General Fund appropriation of 0.4 FTE and \$19,671 for FY 2000-01

Departments Contacted

Local Affairs

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Bill G

Omissions and Technical or Mechanical Defects

A Division of Planning does not currently exist within the Department of Local Affairs. The legislative declaration establishing the Division of Planning was repealed effective July 1, 1981. State funding and staffing to support the division was also eliminated at that time.

The Division of Local Government is currently administering state demographics and assistance to local governments. The department recommends the provisions of this bill be placed under the authority of the Division of Local Government.

Bill H

BY REPRESENTATIVES Stengel, Plant, and Witwer

A BILL FOR AN ACT

CONCERNING A CREDIT AGAINST STATE INCOME TAX FOR EMPLOYERS THAT
ALLOW THEIR EMPLOYEES TO TELECOMMUTE.

Bill Summary

"Income Tax Credit For Telecommuting"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. For tax years commencing on or after January 1, 2000, allows an employer that employs persons within Colorado a credit against state income tax for allowing employees to telecommute. Specifies that the amount of the credit is proportional to the miles of actual commuting avoided by employees in Colorado who telecommute during the tax year in which the employer claims the credit. Requires an employer claiming the credit to file a statement of the amount of the credit claimed and the actual number of employee miles saved with the employer's state income tax return in such form and with such supporting documentation as the department of revenue may require by rule.

Specifies that the credit is in addition to any enterprise zone credits that the employer may claim. Specifies that the amount of any credit in excess of the claiming employer's income tax liability for the year in which the credit is claimed is not refundable, but may be carried forward for up to 3 years.

Defines terms.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 5 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-523. Credit against tax - employer expenses - telecommuting

- definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EMPLOYEE MILE SAVED" MEANS EACH MILE BETWEEN AN EMPLOYEE'S RESIDENCE THAT IS WITHIN COLORADO AND A PLACE OF BUSINESS OF HIS OR HER EMPLOYER'S THAT IS WITHIN COLORADO THAT THE EMPLOYEE DOES NOT TRAVEL BECAUSE THE EMPLOYEE TELECOMMUTES.

(b) "EMPLOYER" MEANS A RESIDENT INDIVIDUAL SUBJECT TO THE PROVISIONS OF PART 1 OF THIS ARTICLE OR A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS ARTICLE THAT EMPLOYS ONE OR MORE INDIVIDUALS WITHIN COLORADO.

(c) "TELECOMMUTE" OR "TELECOMMUTING" MEANS THE USE OF TELECOMMUNICATIONS BY AN EMPLOYEE TO PERFORM WORK FUNCTIONS UNDER CIRCUMSTANCES IN WHICH THE USE OF TELECOMMUNICATIONS REDUCES OR ELIMINATES THE NEED FOR THE EMPLOYEE TO COMMUTE TO A PLACE OF BUSINESS OF HIS OR HER EMPLOYER THAT IS WITHIN COLORADO.

(2) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2000, THERE SHALL BE ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE TO ANY EMPLOYER WHO ALLOWS ITS EMPLOYEES WITHIN COLORADO TO TELECOMMUTE DURING ALL OR ANY PORTION OF THAT INCOME TAX YEAR. THE AMOUNT OF THE CREDIT THAT CAN BE CLAIMED BY AN EMPLOYER IN ANY GIVEN INCOME TAX YEAR IS AN AMOUNT EQUAL TO __ CENTS PER EMPLOYEE MILE SAVED DURING THE INCOME TAX YEAR FOR WHICH THE CREDIT IS CLAIMED BY THE EMPLOYEES OF THAT EMPLOYER WITHIN COLORADO.

(3) IN ORDER FOR AN EMPLOYER TO CLAIM THE CREDIT ALLOWED BY SUBSECTION (2) OF THIS SECTION, THE EMPLOYER SHALL FILE A STATEMENT OF THE ACTUAL NUMBER OF EMPLOYEE MILES SAVED DURING THE INCOME TAX YEAR FOR WHICH THE CREDIT IS CLAIMED WITH THE EMPLOYER'S STATE INCOME TAX RETURN FOR SUCH INCOME TAX YEAR. THE EMPLOYER SHALL FILE THE STATEMENT IN SUCH FORM AND WITH SUCH SUPPORTING DOCUMENTATION AS THE DEPARTMENT OF REVENUE MAY REQUIRE BY RULE.

(4) THE CREDIT ALLOWED BY THIS SECTION SHALL BE IN ADDITION TO ANY OTHER CREDITS FOR WHICH THE EMPLOYER BE ELIGIBLE PURSUANT TO THE PROVISIONS OF ARTICLE 30 OF THIS TITLE.

(5) IF THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION EXCEEDS THE ACTUAL TAX LIABILITY OF THE EMPLOYER CLAIMING THE CREDIT FOR ANY INCOME TAX YEAR IN WHICH THE CREDIT IS CLAIMED, SUCH EXCESS MAY BE CARRIED FORWARD AND APPLIED AGAINST THE INCOME TAX DUE IN EACH OF THE THREE SUCCEEDING TAX YEARS BUT SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE. ANY AMOUNT OF THE CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR CREDITED TO THE EMPLOYER.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if

approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

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BILL H

Colorado Legislative Council Staff

**STATE
FISCAL IMPACT**

Drafting Number: LLS 00-0336

Date: November 30, 1999

Prime Sponsor(s): Rep. Stengel

Bill Status: Committee on Development and
Growth in Colorado

Fiscal Analyst: Harry Zeid (303-866-4753)

TITLE: CONCERNING A CREDIT AGAINST STATE INCOME TAX FOR EMPLOYERS THAT
ALLOW THEIR EMPLOYEES TO TELECOMMUTE.

Fiscal Impact Summary	FY 1999/2000	FY 2000/2001	FY 2001/2002
State Revenues General Fund	Undetermined GF Revenue Reduction		
State Expenditures General Fund			
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE
Other State Impact: TABOR Impact			
Effective Date: 90 days after adjournment, unless a referendum petition is filed. The bill would apply to income tax years commencing on or after January 1, 2000.			
Appropriation Summary for FY 2000-2001: None			
Local Government Impact: None Identified			

Summary of Legislation

This bill creates an income tax credit for any employer who allows its employees within Colorado to telecommute during all or any portion of the income tax year. The income tax credit would be effective for income tax years commencing on or after January 1, 2000. The credit would be based on employee miles saved. The bill defines "employee mile saved" as each mile between an employee's residence that is within Colorado and a place of business of his or her employer's that is within Colorado that the employee *does not* travel because the employee telecommutes. As introduced, the amount of the credit per employee mile saved has not been identified in the bill. In order to qualify for the credit, an employer must file a statement of the actual number of employee miles saved during the income tax year, along with any supporting documentation required by the Department of Revenue. The income tax credit may be carried forward and applied against income tax due for three years.

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BILL H

The bill will reduce state General Fund revenues. Therefore, the bill is assessed as having state fiscal impact.

State Revenues

The amount of the credit per employee mile saved has not been identified in the bill. Therefore, no estimate of the state General Fund revenue reduction has been made. The following information is provided for informational purposes.

According to the 1997 Bureau of Labor Statistics (BLS) survey of benefits in medium and large establishments in private industry, 2.0 percent of employees were eligible for flexible workplace benefits. (1.26 percent of employees of small businesses were eligible according to the 1996 small business survey). BLS defines flexible workplace benefits as "arrangements permitting employees to work at home several days of the workweek. Such arrangements are especially compatible with work requiring the use of computers linking home to the central office." According to a report published by the Colorado Department of Labor and Employment ES-202 Section, in March 1999 there were 1,755,362 persons covered by unemployment insurance, and therefore presumed to be employed. Two percent of that amount is 35,107 individuals. Based on an average commute distance (one-way) in 1995 (latest data available) of 10 miles, if 35,107 individuals telecommuted 3 days/week over a distance of 20 miles for 50 weeks/year, the income tax credit would approximate **\$1,053,210 for each penny credit per mile** saved (35,107 telecommuters x 3 days per week x 50 weeks per year x 20 miles per round-trip commute). The value of the credit is directly proportional to the number of qualified telecommuters. For example, if the number of qualified telecommuters is increased to 150,000, the value of the credit would increase to \$4.5 million for each penny credit per mile. There would be a one-half year fiscal impact in FY 1999-00 on an accrual accounting basis.

State Expenditures

State expenditures would be unaffected by the bill. The Department of Revenue will be required to capture an additional line of data from taxpayers who claim the credit on their income tax form at a cost of \$16.80 per 1,000 returns. Since the number of returns claiming the credit is not anticipated to be very large, the cost for data entry is expected to be insignificant and will be absorbed within the existing resources of the department.

Other State Impacts

The reduced state revenues will mean a reduction of the amount of future state funds required to be refunded to taxpayers under the terms of TABOR, and less state funds will be available in the General Fund reserve. Also, Colorado taxpayers would experience an increased federal tax liability.

Bill I

BY REPRESENTATIVES Witwer and Stengel;
also SENATOR Congrove.

A BILL FOR AN ACT

CONCERNING THE CREATION OF A STATE INCOME TAX CREDIT TO ENCOURAGE
THE PRESERVATION OF OPEN SPACE WITHIN THE STATE OF COLORADO.

Bill Summary

"Income Tax Credit For Open Space"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. For income tax years commencing on or after January 1, 2000, creates a state income tax credit for any taxpayer who preserves one or more parcels, as defined by the act, of real property as open space pursuant to an open space management plan. In order to claim the credit in any taxable year, requires a taxpayer to submit a certificate issued by the Colorado cooperative extension service that certifies that a taxpayer has complied with the open space management plan during a given calendar year.

Requires the cooperative extension service to inspect bi-annually each parcel of land subject to an open space management plan and to certify parcels that are being preserved as open space in accordance with such plans. Specifies information that must be included in the certificate. Authorizes the cooperative extension service to charge a fee to property owners to cover the costs of inspecting such parcels.

States the amount of the credit allowed for each parcel of real property that is being preserved as open space in accordance with an open space management plan. Establishes a maximum aggregate amount of credit that may be claimed by a taxpayer during a given tax year. Allows the unused portion of the credit to be carried forward against future years' tax liability for a specified period. Prohibits a taxpayer from claiming the credit if a state

income tax credit for conservation easements has been claimed for the same parcel of real property.

Defines terms.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 5 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-523. Credit against tax - open space preservation - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COLORADO COOPERATIVE EXTENSION SERVICE" MEANS THE ORGANIZATIONAL UNIT OF THE COLORADO STATE UNIVERSITY ESTABLISHED PURSUANT TO ARTICLE 24 OF TITLE 23, C.R.S.

(b) "OPEN SPACE MANAGEMENT PLAN" MEANS AN AGREEMENT THAT HAS BEEN EXECUTED BETWEEN THE OWNER OF ANY PARCEL OF REAL PROPERTY THAT IS IN ITS NATURAL STATE AND THE COLORADO COOPERATIVE EXTENSION SERVICE AND THAT INCLUDES A PLAN TO AID THE OWNER IN PRESERVING SUCH PARCEL OF REAL PROPERTY IN ITS NATURAL STATE THROUGH THE USE OF GENERALLY ACCEPTED LAND MANAGEMENT PRACTICES IN ORDER TO:

(I) CONSERVE AND ENHANCE NATURAL OR SCENIC RESOURCES;

(II) PROTECT STREAMS OR WATER SUPPLY;

(III) PROMOTE THE CONSERVATION OF SOILS OR WETLANDS;

(IV) ENHANCE THE VALUE TO THE PUBLIC OF ABUTTING OR NEIGHBORING PARKS, FORESTS, WILDLIFE PRESERVES, NATURE RESERVATIONS OR SANCTUARIES, OR OTHER OPEN SPACE;

(V) ENHANCE RECREATION OPPORTUNITIES;

(VI) CONSERVE AND ENHANCE WILDLIFE AND WILDLIFE HABITAT;

(VII) PRESERVE HISTORIC SITES; OR

(VIII) PRESERVE VISUAL QUALITY ALONG HIGHWAY, ROAD, AND STREET CORRIDORS OR SCENIC VISTAS.

(c) "PARCEL" MEANS ANY PARCEL OF REAL PROPERTY THAT CONTAINS AT LEAST _____ ACRES.

(d) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL SUBJECT TO THE PROVISIONS OF PART 1 OF THIS ARTICLE OR A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS ARTICLE.

(2) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2000, SUBJECT TO THE PROVISIONS OF THIS SECTION, THERE SHALL BE ALLOWED A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE TO ANY TAXPAYER WHO OWNS ONE OR MORE PARCELS THAT ARE BEING PRESERVED AS OPEN SPACE IN ACCORDANCE WITH AN OPEN SPACE MANAGEMENT PLAN AS CERTIFIED BY THE COLORADO COOPERATIVE EXTENSION SERVICE.

(3) IN ORDER FOR ANY TAXPAYER TO QUALIFY FOR THE CREDIT ALLOWED BY SUBSECTION (2) OF THIS SECTION FOR EACH PARCEL FOR WHICH THE CREDIT IS CLAIMED, THE TAXPAYER SHALL FILE A CERTIFICATE OF OPEN SPACE PRESERVATION ISSUED BY THE COLORADO COOPERATIVE EXTENSION SERVICE IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION WITH THE DEPARTMENT OF REVENUE AT THE SAME TIME AS THE TAXPAYER FILES A RETURN FOR THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED.

(4) THE COLORADO COOPERATIVE EXTENSION SERVICE SHALL INSPECT BI-ANNUALLY EACH PARCEL SUBJECT TO AN OPEN SPACE

MANAGEMENT PLAN TO DETERMINE IF THE TERMS AND CONDITIONS OF SUCH PLAN ARE BEING COMPLIED WITH AND, UPON ASCERTAINING SUCH COMPLIANCE, SHALL ISSUE A CERTIFICATE OF OPEN SPACE PRESERVATION TO THE OWNER OF SUCH PARCEL NO LATER THAN DECEMBER 31 OF ANY GIVEN CALENDAR YEAR IN WHICH SUCH OPEN SPACE MANAGEMENT PLAN IS IN EFFECT. SUCH CERTIFICATE SHALL SPECIFY THE LEGAL DESCRIPTION OF THE PARCEL BEING PRESERVED AS OPEN SPACE AND THE NAMES OF THE OWNERS OF SUCH PARCEL. NO TAXPAYER SHALL BE ELIGIBLE TO CLAIM THE CREDIT ALLOWED PURSUANT TO SUBSECTION (2) OF THIS SECTION UNLESS THE CERTIFICATE ISSUED BY THE COLORADO COOPERATIVE EXTENSION SERVICE INCLUDES THE LEGAL DESCRIPTION OF THE PARCEL AND THE NAMES OF THE OWNERS. THE COLORADO COOPERATIVE EXTENSION SERVICE MAY CHARGE A FEE FOR THE INSPECTION OF EACH PARCEL OF LAND IN SUCH AN AMOUNT TO COVER THE REASONABLE COSTS INCURRED IN CONDUCTING SUCH INSPECTIONS. SUCH FEE SHALL BE PAID BY THE OWNER OF THE PARCEL PRIOR TO SUCH INSPECTION.

(5) THE AMOUNT OF THE CREDIT THAT MAY BE CLAIMED FOR EACH PARCEL THAT IS CERTIFIED AS BEING PRESERVED AS OPEN SPACE DURING THE CALENDAR YEAR IN WHICH THE TAXABLE YEAR COMMENCES SHALL BE _____ DOLLARS. HOWEVER, THE AGGREGATE AMOUNT OF CREDIT THAT MAY BE CLAIMED BY ANY TAXPAYER PURSUANT TO THIS SECTION IN ANY GIVEN TAX YEAR SHALL NOT EXCEED _____ DOLLARS.

(6) IF THE AGGREGATE AMOUNT OF THE CREDIT ALLOWED BY SUBSECTION (2) OF THIS SECTION EXCEEDS THE AMOUNT OF INCOME TAX DUE ON THE INCOME OF THE TAXPAYER FOR THE TAXABLE YEAR, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES IN SAID INCOME

TAX YEAR MAY BE CARRIED FORWARD AND APPLIED AGAINST SUBSEQUENT YEARS' TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE YEARS AND SHALL BE FIRST APPLIED AGAINST THE INCOME TAX DUE FOR THE EARLIEST INCOME TAX YEARS POSSIBLE. ANY AMOUNT OF THE CREDIT THAT IS NOT USED AFTER SAID PERIOD SHALL NOT BE REFUNDABLE TO THE TAXPAYER.

(7) A TAXPAYER MAY NOT CLAIM THE CREDIT ALLOWED BY SUBSECTION (2) OF THIS SECTION FOR ANY PARCEL THAT THE TAXPAYER OWNS ON WHICH A PERPETUAL CONSERVATION EASEMENT IN GROSS HAS BEEN CREATED PURSUANT TO ARTICLE 30.5 OF TITLE 38, C.R.S., TO A GOVERNMENTAL ENTITY OR CHARITABLE ORGANIZATION DESCRIBED IN SECTION 38-30.5-104(2), C.R.S., AND FOR WHICH A CREDIT HAS BEEN CLAIMED PURSUANT TO SECTION 39-22-522.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

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Colorado Legislative Council Staff

**STATE
FISCAL IMPACT**

Drafting Number: LLS 00-0348
Prime Sponsor(s): Rep. Witwer
Sen. Congrove

Date: December 6, 1999
Bill Status: Committee on Development and
Growth in Colorado
Fiscal Analyst: Harry Zeid (303-866-4753)

TITLE: CONCERNING THE CREATION OF A STATE INCOME TAX CREDIT TO ENCOURAGE THE PRESERVATION OF OPEN SPACE WITHIN THE STATE OF COLORADO.

Fiscal Impact Summary	FY 1999/2000	FY 2000/2001	FY 2001/2002
State Revenues General Fund	Undetermined GF Revenue Reduction		
State Expenditures General Fund			
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE

Other State Impact: TABOR Impact

Effective Date: 90 days after adjournment unless a petition referendum is filed. The income tax credit is effective for income tax years commencing on or after January 1, 2000.

Appropriation Summary for FY 2000-2001: Amount not identified

Local Government Impact: None

Summary of Legislation

This bill creates a state income tax credit for any taxpayer who preserves one or more parcels of real property as open space pursuant to an open space management plan certified by the Colorado Cooperative Extension Service (CCES). The income tax credit would be effective for income tax years commencing on or after January 1, 2000.

The Colorado Cooperative Extension Service would be required to bi-annually inspect each parcel subject to an open space management plan to determine if the terms and conditions of the plan are being complied with. A certificate of open space preservation would then be issued to the owner of the parcel. A fee may be charged by the CCES to cover the costs in conducting the inspections.

Currently, the bill does not identify the amount of the state income tax credit that may be claimed for each parcel that is certified as being preserved as open space, or the minimum parcel size that would qualify for consideration. The maximum aggregate amount of credit that may be claimed

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Bill I

by any taxpayer during any given tax year has also been left blank in the bill. The income tax credit would be non-refundable, and may be carried forward for up to five years.

State Revenues

The amount of the state income tax credit per parcel and the minimum size parcel that would qualify for the state income tax credit has not been identified in the bill. Therefore, no estimate of the state General Fund revenue reduction has been made. Since the income tax credit would be effective for income tax years commencing on or after January 1, 2000, a one-half year impact would occur in FY 1999-00.

The bill authorizes the CCES to charge a fee for the inspection to cover the reasonable costs incurred in conducting the inspections. The fee structure has not been identified and the amount of revenue has not been determined. Fee revenue collected by CCES would be counted as state revenue for the purposes of determining total state TABOR revenue.

State Expenditures

Department of Revenue. Expenditures for the Department of Revenue will be unaffected by the bill. The Department of Revenue will be required to capture an additional line of data from taxpayers who claim the credit on their income tax form at a cost of \$16.80 per 1,000 returns. Since the number of returns claiming the credit is not anticipated to be very large, the cost for data entry is expected to be insignificant and will be absorbed within the existing resources of the department.

Colorado Cooperative Extension Service. The bill identifies CCES as the agency responsible for bi-annual inspection of parcels that are subject to an open space management plan to determine if the terms and conditions of the plan are being complied with. CCES would issue certificates of open space preservation to qualified property owners. The bill authorizes the CCES to charge a fee for the inspection to cover the reasonable costs incurred in conducting the inspections. The fee structure has not been identified.

Certain costs will be incurred by CCES in order to provide the inspections required by the bill. The Colorado Cooperative Extension Service currently has field agent representation in each county in the state, however, the regulatory functions involved with the inspection and certification of property are outside of the current scope and mission of the Cooperative Extension. Since the number of parcels subject to inspection is not known, and the amount of time necessary for on-site field visits has not been identified, an estimate of annual cost has not been made. Fees would be established to recover all program costs.

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State Appropriations

The fiscal note implies that new state appropriations will be required to implement the provisions of the bill in FY 2000-01. However, the amount of that appropriation is yet to be determined.

Departments Contacted

Revenue	Local Affairs	Agriculture	Legislative Council
Colorado Commission on Higher Education			

Resolution A

BY SENATORS Congrove and Sullivant

CONCERNING THE SUBMISSION TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO OF AN AMENDMENT TO SECTION 3 (1) (b) OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, REQUIRING THE SAME RATIO OF VALUATION FOR ASSESSMENT THAT IS APPLIED TO RESIDENTIAL REAL PROPERTY FOR THE PURPOSE OF IMPOSING PROPERTY TAX TO BE APPLIED TO VACANT LAND.

Resolution Summary

"Reduce Vacant Land Valuation For Assess"

(Note: This summary applies to this resolution as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Development and Growth in Colorado. For property tax years commencing on or after January 1, 2001, requires vacant land to be assessed for valuation for the purpose of imposing property tax at the same percentage of actual value as residential land. For the purpose of determining the biennial adjustment to be made to the ratio of valuation for assessment for residential real property, requires the aggregate statewide valuation for assessment that is attributable to vacant land to be calculated using the current ratio of valuation for assessment for vacant land of 29%.

Be It Resolved by the Senate of the Sixty-second General Assembly of the State of Colorado, the House of Representatives concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Section 3 (1) (b) of article X of the constitution of the state of Colorado is amended to read:

Section 3. Uniform taxation - exemptions. (1) (b) Residential real property, which shall include all residential dwelling units and the land, as defined by law, on which such units are located, and mobile home parks, but shall not include hotels and motels, shall be valued for assessment at twenty-one percent of its actual value. For the property tax year commencing January 1, 1985, the general assembly shall determine the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property. For each subsequent year, the general assembly shall again determine the percentage of the aggregate statewide valuation for assessment which is attributable to each class of taxable property, after adding in the increased valuation for assessment attributable to new construction and to increased volume of mineral and oil and gas production. For each year in which there is a change in the level of value used in determining actual value, the general assembly shall adjust the ratio of valuation for assessment for residential real property which is set forth in this paragraph (b) as is necessary to insure that the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property shall remain the same as it was in the year immediately preceding the year in which such change occurs. Such adjusted ratio shall be the ratio of valuation for assessment for residential real property for those years for which such new level of value is used. IN DETERMINING THE ADJUSTMENT TO BE MADE IN THE RATIO OF VALUATION FOR ASSESSMENT FOR RESIDENTIAL REAL PROPERTY, THE AGGREGATE STATEWIDE VALUATION FOR ASSESSMENT THAT IS ATTRIBUTABLE TO VACANT LAND, AS DEFINED BY LAW, SHALL BE CALCULATED USING A RATIO OF VALUATION FOR

ASSESSMENT FOR VACANT LAND OF TWENTY-NINE PERCENT. HOWEVER, FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2001, VACANT LAND, AS DEFINED BY LAW, SHALL BE VALUED FOR ASSESSMENT FOR THE PURPOSE OF IMPOSING PROPERTY TAX AT THE SAME RATIO OF VALUATION FOR ASSESSMENT AS RESIDENTIAL REAL PROPERTY. All other taxable property shall be valued for assessment at twenty-nine percent of its actual value. However, the valuation for assessment for producing mines, as defined by law, and lands or leaseholds producing oil or gas, as defined by law, shall be a portion of the actual annual or actual average annual production therefrom, based upon the value of the unprocessed material, according to procedures prescribed by law for different types of minerals. Non-producing unpatented mining claims, which are possessory interests in real property by virtue of leases from the United States of America, shall be exempt from property taxation.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AN AMENDMENT TO SECTION 3 (1) (b) OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, REQUIRING THE SAME RATIO OF VALUATION FOR ASSESSMENT THAT IS APPLIED TO RESIDENTIAL REAL PROPERTY FOR THE PURPOSE OF IMPOSING PROPERTY TAX TO BE APPLIED TO VACANT LAND."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

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Resolution A

Colorado Legislative Council Staff

STATE and LOCAL CONDITIONAL FISCAL IMPACT

Drafting Number: LLS 00-0383
Prime Sponsor(s): Sen. Congrove

Date: November 30, 1999
Bill Status: Committee on Development and
Growth in Colorado
Fiscal Analyst: Harry Zeid (303-866-4753)

TITLE: CONCERNING THE SUBMISSION TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO OF AN AMENDMENT TO SECTION 3 (1) (B) OF ARTICLE X OF THE CONSTITUTION OF THE STATE OF COLORADO, REQUIRING THE SAME RATIO OF VALUATION FOR ASSESSMENT THAT IS APPLIED TO RESIDENTIAL REAL PROPERTY FOR THE PURPOSE OF IMPOSING PROPERTY TAX TO BE APPLIED TO VACANT LAND.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002
State Revenues General Fund		
State Expenditures General Fund		\$71,350,000
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None		
Effective Date: Upon approval by the voters at the November 2000 general election.		
Appropriation Summary for FY 2000-2001: None		
Local Government Impact: Statewide, property tax collections will be reduced by \$177 million beginning in CY 2002. Of this amount, local governments (other than school districts) will experience property tax revenue losses estimated to be \$105.65 million in CY 2002. There is no state "backfill" provision in the bill for this revenue loss. The estimated loss of \$71.35 million for school districts will be "backfilled" through the School Finance Act.		

Summary of Legislation

This Senate Concurrent Resolution will submit a question to the registered electors of the State of Colorado at the next general election in November 2000 to amend the State Constitution. Resolution A would require that, effective for property tax years commencing on or after January 1, 2001, for the purpose of imposing property tax, vacant land be assessed at the same percentage of actual value as is used for assessing residential land. When calculating the residential assessment rate (the ratio of valuation for assessment), vacant land will continue to be categorized as non-residential

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Resolution A

land and would be weighted at 29 percent of market value. Therefore, the formula for calculating the residential assessment rate will not be affected by the change in the method of assessing vacant land.

Resolution A will take effect following the resolution's approval by the voters. Therefore, the resolution is assessed as having conditional state and local fiscal impact.

State Expenditures

The amount of the property tax backfill for school districts is estimated to be \$71.35 million for FY 2001-02. This will be a state General Fund obligation, and subject to the six percent state General Fund appropriations limit. A further description of the bill's impact on school districts and other local governments is provided in the Local Government Impact section of the fiscal note below.

Local Government Impact

If approved by the voters, Resolution A will assess vacant land at the rate established for assessing residential land rather than the current assessment rate on vacant land of 29 percent. The residential assessment rate is currently 9.74 percent. However, at the time this resolution would take effect, the residential assessment rate is projected to be 9.40 percent. The effect of this change lowers the property tax burden on vacant land by approximately \$177 million beginning with the 2001 assessment year for property taxes due in 2002. This is a property tax reduction on the liability of this class of property of approximately two-thirds.

Statewide, the amount of property taxes levied for the operating budgets of school districts is 40.3 percent of the total amount of property tax levied by local governments in the state. The School Finance Act requires the state to make up for any lost operating budget property tax revenue. Therefore, beginning in FY 2001-02, the state may be required to reimburse lost property tax revenues with General Fund moneys to school districts that are affected by the bill. The amount of the school district property tax backfill is estimated to be \$71.35 million beginning in FY 2001-02.

The amount of reduced property tax revenue for non-school district local governments and for debt is estimated to be \$105.65 million for CY 2002. There are no backfill provisions in the resolution for revenue losses to non-school district local governments.

State Appropriations

The fiscal note implies that no new spending authority or appropriations are required to implement the provisions of the bill in FY 2000-01.

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Resolution A

Departments Contacted

Legislative Council Staff

Local Affairs